



January 17, 2020

SENATE BILL No. 23

DIGEST OF SB 23 (Updated January 16, 2020 11:41 am - DI 87)

Citations Affected: IC 13-18; IC 36-4; IC 36-9.

Synopsis: Annexation. Provides, with certain exceptions, that the following apply to annexations for which an annexation ordinance is adopted after March 31, 2020: (1) A municipality initiating an annexation must file a petition with the court signed by at least: (A) 51% of the owners of land that is not exempt from property taxes in the annexation territory; or (B) the owners of more than 75% in assessed valuation of land that is not exempt from property taxes in the annexation territory. (2) If the petition filed by the municipality has enough signatures, the court must hold a hearing to review the annexation. (3) Adds provisions regarding the validity of a signature on an annexation petition. (4) Eliminates the remonstrance procedure for annexations and reimbursement of remonstrator's attorney's fees and costs. (5) Provides that remonstrance waivers are void for annexations for which the annexation ordinance is adopted after March 31, 2020. (6) Provides that a settlement agreement in lieu of annexation that is executed after March 31, 2020, is void. (7) Eliminates provisions regarding the contiguity of a public highway. Eliminates provisions that prohibit an annexation from taking effect in the year preceding the year that a federal decennial census is conducted.

Effective: Upon passage; July 1, 2020.

Boots, Gaskill

January 6, 2020, read first time and referred to Committee on Local Government.
January 16, 2020, amended, reported favorably — Do Pass.

SB 23—LS 6149/DI 87



January 17, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 23

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-18-15-2, AS AMENDED BY P.L.257-2019,
2 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) The persons involved shall negotiate the
4 terms for connection and service under this chapter.
5 (b) If service is ordered under this chapter, a receiver of that service
6 that is located in an unincorporated area may grant a waiver to a
7 municipality providing the service. A waiver under this section:
8 (1) must waive the receiver's right of remonstrance against
9 annexation of the areas in which the service is to be provided; and
10 (2) may be one (1) of the terms for connection and service
11 described in subsection (a).
12 (c) The waiver, if granted:
13 (1) shall be noted on the deed of each property affected and
14 recorded as provided by law; and
15 (2) is considered a covenant running with the land.
16 (d) This subsection applies to any deed recorded after June 30,
17 2015. This subsection applies only to property that is subject to a

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1 remonstrance waiver. A municipality shall, within a reasonable time
 2 after the recording of a deed to property located within the
 3 municipality, provide written notice to the property owner that a waiver
 4 of the right of remonstrance exists with respect to the property.

5 (e) A remonstrance waiver executed before July 1, 2003, is void.
 6 This subsection does not invalidate an annexation that was effective on
 7 or before July 1, 2019.

8 (f) A remonstrance waiver executed after June 30, 2003, and before
 9 July 1, 2019, is subject to the following:

10 (1) The waiver is void unless the waiver was recorded ~~(A)~~ before
 11 January 1, 2020;

12 ~~and (B)~~ with the county recorder of the county where the property
 13 subject to the waiver is located.

14 (2) A waiver that is not void under subdivision (1) **or subsection**
 15 **(h)**, expires not later than fifteen (15) years after the date the
 16 waiver is executed.

17 This subsection does not invalidate an annexation that was effective on
 18 or before July 1, 2019.

19 (g) A remonstrance waiver executed after June 30, 2019, ~~is subject~~
 20 ~~to the following (1) The waiver is void unless the waiver is must be~~
 21 ~~recorded (A) not later than thirty (30) business days after the date the~~
 22 ~~waiver was executed and (B) with the county recorder of the county~~
 23 ~~where the property subject to the waiver is located. (2) A waiver that~~
 24 ~~is not void under subdivision (1); expires not later than fifteen (15)~~
 25 ~~years after the date the waiver is executed.~~ This subsection does not
 26 invalidate an annexation that was effective on or before July 1, 2019.

27 **(h) Notwithstanding any other law, a waiver of the right of**
 28 **remonstrance is valid and binding on a landowner or a successor**
 29 **in title only with regard to an annexation for which the annexation**
 30 **ordinance was adopted before April 1, 2020.**

31 SECTION 2. IC 36-4-3-1.5, AS AMENDED BY P.L.206-2016,
 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 UPON PASSAGE]: Sec. 1.5. (a) For purposes of this chapter, territory
 34 sought to be annexed may be considered "contiguous" only if at least
 35 one-eighth (1/8) of the aggregate external boundaries of the territory
 36 coincides with the boundaries of the annexing municipality. In
 37 determining if a territory is contiguous, a strip of land less than one
 38 hundred fifty (150) feet wide that connects the annexing municipality
 39 to the territory is not considered a part of the boundaries of either the
 40 municipality or the territory.

41 (b) This subsection applies to an annexation for which an
 42 annexation ordinance is adopted after June 30, 2015, **and before April**



1 **1, 2020.** A public highway or the rights-of-way of a public highway are
 2 contiguous to:

3 (1) the municipality; or

4 (2) property in the unincorporated area adjacent to the public
 5 highway or rights-of-way of a public highway;

6 if the public highway or the rights-of-way of a public highway are
 7 contiguous under subsection (a) and one (1) of the requirements in
 8 subsection (c) is satisfied.

9 (c) **This subsection applies to an annexation for which an**
 10 **annexation ordinance is adopted after June 30, 2015, and before**
 11 **April 1, 2020.** A public highway or the rights-of-way of a public
 12 highway are not contiguous unless one (1) of the following
 13 requirements is met:

14 (1) The municipality obtains the written consent of the owners of
 15 all property:

16 (A) adjacent to the entire length of the part of the public
 17 highway and rights-of-way of the public highway that is being
 18 annexed; and

19 (B) not already within the corporate boundaries of the
 20 municipality.

21 A waiver of the right of remonstrance executed by a property
 22 owner or a successor in title of the property owner for sewer
 23 services or water services does not constitute written consent for
 24 purposes of this subdivision.

25 (2) All property adjacent to at least one (1) side of the entire
 26 length of the part of the public highway or rights-of-way of the
 27 public highway being annexed is already within the corporate
 28 boundaries of the municipality.

29 (3) All property adjacent to at least one (1) side of the entire
 30 length of the part of the public highway or rights-of-way of the
 31 public highway being annexed is part of the same annexation
 32 ordinance in which the public highway or rights-of-way of a
 33 public highway are being annexed.

34 A municipality may not annex a public highway or the rights-of-way of
 35 a public highway or annex territory adjacent to the public highway or
 36 rights-of-way of a public highway unless the requirements of this
 37 section are met.

38 SECTION 3. IC 36-4-3-1.7, AS AMENDED BY P.L.206-2016,
 39 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2020]: Sec. 1.7. (a) This section applies only to an annexation
 41 ordinance adopted after June 30, 2015. This section does not apply to
 42 an annexation under section 5.1 of this chapter.



(b) Not earlier than six (6) months before a municipality introduces an annexation ordinance, the municipality shall conduct an outreach program to inform citizens regarding the proposed annexation. For an annexation under section 3 or 4 of this chapter, the outreach program must conduct at least six (6) public information meetings regarding the proposed annexation. For an annexation under section 5 of this chapter, the outreach program must conduct at least three (3) public information meetings regarding the proposed annexation. The public information meetings must provide citizens with the following information:

(1) Maps showing the proposed boundaries of the annexation territory.

(2) Proposed plans for extension of capital and noncapital services in the annexation territory, including proposed dates of extension.

(3) Expected fiscal impact on taxpayers in the annexation territory, including any increase in taxes and fees.

(c) The municipality shall provide notice of the dates, times, and locations of the outreach program meetings. The municipality shall publish the notice of the meetings under IC 5-3-1, including the date, time, and location of the meetings, except that notice must be published not later than thirty (30) days before the date of each meeting. The municipality shall also send notice to each owner of land within the annexation territory not later than thirty (30) days before the date of the first meeting of the outreach program. The notice to landowners shall be sent by first class mail, certified mail with return receipt requested, or any other means of delivery that includes a return receipt and must include the following information:

(1) The notice **to the landowner** must inform the landowner that the municipality is proposing to annex territory that includes the landowner's property.

(2) The municipality is conducting an outreach program for the purpose of providing information to landowners and the public regarding the proposed annexation.

(3) The date, time, and location of the meetings to be conducted under the outreach program.

(d) The notice shall be sent to the address of the landowner as listed on the tax duplicate. If the municipality provides evidence that the notice was sent:

(1) by certified mail, with return receipt requested or any other means of delivery that includes a return receipt; and

(2) in accordance with this section;

it is not necessary that the landowner accept receipt of the notice.



(e) **This subsection applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015, and before April 1, 2020.** If a remonstrance is filed under section 11 of this chapter, the municipality shall file with the court proof that notices were sent to landowners under this section and proof of publication.

~~(e)~~ (f) The notice required under this section is in addition to any notice required under sections 2.1 and 2.2 of this chapter.

SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(b) A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

(c) Except as provided in subsection (d), the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5, ~~or 5.1~~, **or 5.5** of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance.

SECTION 5. IC 36-4-3-5, AS AMENDED BY P.L.149-2016, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This subsection applies only to a petition requesting annexation that is filed before July 1, 2015. If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) This subsection applies only to a petition requesting annexation that is filed after June 30, 2015. **A municipality may not collect signatures on an annexation petition that is filed with the legislative body under this section after March 31, 2020.** If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition that meets the



following requirements:

(1) The petition is signed by at least one (1) of the following:

(A) Fifty-one percent (51%) of the owners of land in the territory sought to be annexed. An owner of land may not:

(i) be counted in calculating the total number of owners of land in the annexation territory; or

(ii) have the owner's signature counted;

with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(B) The owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a petition with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The petition requests an ordinance annexing the area described in the petition.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) If the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a) or (b), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(e) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;



(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(f) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

SECTION 6. IC 36-4-3-5.1, AS AMENDED BY P.L.228-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) Owners of land located outside but contiguous to a municipality may file a petition with the legislative body of the municipality:

(1) requesting an ordinance annexing the area described in the petition; and

(2) signed by:

(A) one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed, in the case of a petition filed before July 1, 2015; and

(B) in the case of a petition filed after June 30, 2015, one hundred percent (100%) of the owners of land within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(d) The municipality may:

(1) adopt an annexation ordinance annexing the territory; and

(2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing



may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

~~(i) A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.~~

~~(j) (i)~~ In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter.

SECTION 7. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) This section does not apply to an annexation under section 5 or 5.1 of this chapter.**

(b) This section applies only to an annexation for which an annexation ordinance is adopted after March 31, 2020.

(c) After a municipality meets the requirements under sections 2.1 and 2.2 of this chapter, and adopts an annexation ordinance under section 3 or 4 of this chapter, in order for the annexation to proceed, the municipality must file a written petition under subsection (f), signed by owners of land in the territory proposed to be annexed who are in favor of the annexation. The petition must be signed by:

(1) at least fifty-one percent (51%) of the owners of land:

(A) not exempt from property taxes under IC 6-1.1-10 or any other state law; and



(B) in the territory proposed to be annexed; or
 (2) the owners of more than seventy-five percent (75%) in
 assessed valuation of land:

(A) not exempt from property taxes under IC 6-1.1-10 or
 any other state law; and

(B) in the territory proposed to be annexed.

(d) The petition circulated by the municipality must include on
 each page where signatures are affixed a heading that is
 substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert
 whether city or town) OF (insert name of city or town)."

(e) A landowner may withdraw the landowner's signature from
 the petition not more than ten (10) days after the municipality
 adopts the annexation ordinance by providing written notice to the
 office of the clerk of the municipality. A landowner who withdraws
 the landowner's signature from the petition is considered not to
 have signed the petition for purposes of subsection (h)(2).

(f) The municipality must file the petition with the circuit or
 superior court of the county where the municipality is located not
 later than ninety (90) days after the publication of the annexation
 ordinance under section 7 of this chapter. The petition must be
 accompanied by:

(1) a copy of the ordinance; and

(2) the names and addresses of all persons who meet the
 requirements of subsection (h).

(g) On receipt of the petition, the court shall determine whether
 the petition has the necessary signatures. In determining the total
 number of landowners of the territory proposed to be annexed and
 whether signers of the petition are landowners, the names
 appearing on the tax duplicate for that territory constitute prima
 facie evidence of ownership. Only one (1) person having an interest
 in each single property, as evidenced by the tax duplicate, is
 considered a landowner for purposes of this section. A person is
 entitled to sign a petition only one (1) time, regardless of whether
 the person owns more than one (1) parcel of real property. If the
 court determines that the municipality's petition has a sufficient
 number of signatures, the court shall fix a time, not later than sixty
 (60) days after its determination, for a hearing on the petition.

(h) A person may intervene as a party at the hearing described
 in subsection (g) if the following requirements are satisfied:

(1) The person owns, solely or with another person, property
 that is in the territory proposed to be annexed.



1 (2) None of the owners of the property signed the petition filed
2 by the municipality.

3 (3) The person appeared in person or submitted a
4 remonstrance or other document objecting to the annexation
5 into the record of the municipality's hearing on the
6 annexation ordinance under section 2.1 of this chapter.

7 The court shall give a person described in this subsection notice of
8 the hearing on the petition by certified mail.

9 SECTION 8. IC 36-4-3-5.6 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 5.6. (a) This section applies only to an
12 annexation for which an annexation ordinance is adopted after
13 March 31, 2020.

14 (b) A waiver or release of the right of remonstrance by a
15 landowner or successor in title is void and may not be considered
16 or counted as a valid signature on a petition in favor of annexation
17 under section 5, 5.1, or 5.5 of this chapter.

18 (c) If with regard to a signature on a petition for annexation
19 under section 5, 5.1, or 5.5 of this chapter:

20 (1) the validity of a signature is uncertain; and

21 (2) this section does not establish a standard to be applied in
22 the case;

23 a reasonable doubt must be resolved in favor of the validity of the
24 signature.

25 (d) Whenever the name of an individual, as printed or signed,
26 contains a minor variation from the name of the individual as set
27 forth in the relevant county records, the signature is considered
28 valid.

29 (e) Whenever the residence address or mailing address of an
30 individual contains a minor variation from the residence address
31 or mailing address as set forth in the relevant county records, the
32 signature is considered valid.

33 (f) If the residence address or mailing address of an individual
34 contains a substantial variation from the residence address or
35 mailing address as set forth in the relevant county records, the
36 signature is considered invalid.

37 (g) If the signature of an individual does not substantially
38 conform with the signature of the individual in relevant county
39 records, the signature is considered invalid. In determining
40 whether a signature substantially conforms with the signature in
41 the relevant county records, consideration shall be given to
42 whether that lack of conformity may reasonably be attributed to



1 **the age, disability, or impairment of the individual.**

2 SECTION 9. IC 36-4-3-7, AS AMENDED BY P.L.236-2019,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 7. (a) After an ordinance is adopted under
5 section 3, 4, 5, or 5.1 of this chapter, it must be published in the
6 manner prescribed by IC 5-3-1.

7 **(b) This subsection applies only to an annexation for which an**
8 **annexation ordinance is adopted before April 1, 2020.** Except as
9 provided in subsection ~~(b)~~, (c) ~~(d)~~, or ~~(f)~~, (e), or (g), in the absence of
10 remonstrance and appeal under section 11 or 15.5 of this chapter, the
11 ordinance takes effect at least ninety (90) days after its publication and
12 upon the filing required by section 22(a) of this chapter.

13 **(c) An annexation ordinance takes effect as follows:**

14 **(1) This subdivision applies to an annexation under section 5**
15 **of this chapter. Except as provided in subsection (e), in the**
16 **absence of an appeal under section 15.5 of this chapter, the**
17 **annexation ordinance takes effect at least ninety (90) days**
18 **after its publication and upon filing under section 22(a) of this**
19 **chapter.**

20 **(2) This subdivision applies to an annexation under section 5.1**
21 **of this chapter. Except as provided in subsection (e), in the**
22 **absence of an appeal under section 15.5 of this chapter, the**
23 **ordinance takes effect at least thirty (30) days after the**
24 **adoption of the ordinance and upon the filing under section**
25 **22(a) of this chapter.**

26 **(3) This subdivision applies to an annexation under section 5.5**
27 **of this chapter. Except as provided in subsection (e), if a final**
28 **and unappealable judgment under section 12 or 15.5 of this**
29 **chapter is entered in favor of the annexation, the annexation**
30 **is effective upon the filing under section 22(a) of this chapter.**

31 **(4) This subdivision applies to an annexation under section 7.1**
32 **of this chapter for which an annexation ordinance is adopted**
33 **after March 31, 2020. If a final and unappealable judgment**
34 **under section 12 or 15.5 of this chapter is entered in favor of**
35 **the annexation, the annexation is effective upon the filing**
36 **under section 22(a) of this chapter.**

37 ~~(b) An ordinance described in subsection (d) or adopted under~~
38 ~~section 3, 4, 5, or 5.1 of this chapter may not take effect during the year~~
39 ~~preceding a year in which a federal decennial census is conducted. An~~
40 ~~ordinance that would otherwise take effect during the year preceding~~
41 ~~a year in which a federal decennial census is conducted takes effect~~
42 ~~January 1 of the year in which a federal decennial census is conducted.~~



1 ~~(e)~~ **(d)** Subsections ~~(d)~~ and ~~(e)~~ **(e)** and **(f)** apply to fire protection
 2 districts that are established after July 1, 1987, and to which subsection
 3 ~~(g)~~ **(h)** does not apply. For the purposes of this section, territory that
 4 has been:

5 (1) added to an existing fire protection district under
 6 IC 36-8-11-11; or

7 (2) approved by ordinance of the county legislative body to be
 8 added to an existing fire protection district under IC 36-8-11-11,
 9 notwithstanding that the territory's addition to the fire protection
 10 district has not yet taken effect;

11 shall be considered a part of the fire protection district as of the date
 12 that the fire protection district was originally established.

13 ~~(d)~~ **(e)** **Except as provided in subsection (b);** Whenever a
 14 municipality annexes territory, all or part of which lies within a fire
 15 protection district (IC 36-8-11), the annexation ordinance in the
 16 absence of remonstrance and appeal under section 11 or 15.5 of this
 17 chapter **(in the case of an annexation for which an annexation**
 18 **ordinance is adopted before April 1, 2020) or in the absence of a**
 19 **hearing or an appeal under section 12 or 15.5 of this chapter (in the**
 20 **case of an annexation for which an annexation ordinance is**
 21 **adopted after March 31, 2020)** takes effect the second January 1 that
 22 follows the date the ordinance is adopted and upon the filing required
 23 by section 22(a) of this chapter. Except in the case of an annexation to
 24 which subsection (g) applies, the municipality shall:

25 (1) provide fire protection to that territory beginning the date the
 26 ordinance is effective; and

27 (2) send written notice to the fire protection district of the date the
 28 municipality will begin to provide fire protection to the annexed
 29 territory within ten (10) days of the date the ordinance is adopted.

30 ~~(e)~~ **(f)** If the fire protection district from which a municipality
 31 annexes territory under subsection ~~(d)~~ **(e)** is indebted or has
 32 outstanding unpaid bonds or other obligations at the time the
 33 annexation is effective, the municipality is liable for and shall pay that
 34 indebtedness in the same ratio as the assessed valuation of the property
 35 in the annexed territory (that is part of the fire protection district) bears
 36 to the assessed valuation of all property in the fire protection district,
 37 as shown by the most recent assessment for taxation before the
 38 annexation, unless the assessed property within the municipality is
 39 already liable for the indebtedness. The annexing municipality shall
 40 pay its indebtedness under this section to the board of fire trustees. If
 41 the indebtedness consists of outstanding unpaid bonds or notes of the
 42 fire protection district, the payments to the board of fire trustees shall



be made as the principal or interest on the bonds or notes becomes due.

(f) ~~This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d); and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.~~

(g) Whenever a municipality annexes territory that lies within a fire protection district that has a total net assessed value (as determined by the county auditor) of more than one billion dollars (\$1,000,000,000) on the date the annexation ordinance is adopted:

(1) the annexed area shall remain a part of the fire protection district after the annexation takes effect; and

(2) the fire protection district shall continue to provide fire protection services to the annexed area.

The municipality shall not tax the annexed territory for fire protection services. The annexing municipality shall establish a special fire fund for all fire protection services that are provided by the municipality within the area of the municipality that is not within the fire protection district, and which shall not be assessed to the annexed special taxing district. The annexed territory that lies within the fire protection district shall continue to be part of the fire protection district special taxing district.

SECTION 10. IC 36-4-3-7.1, AS AMENDED BY P.L.257-2019, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.1. ~~(a) Notwithstanding section 7(b) of this chapter,~~ An ordinance adopted under section 4 or 5.1 of this chapter **that meets the conditions set forth in subsection (b) takes effect as follows:**

(1) In the case of an annexation for which an annexation ordinance was adopted before April 1, 2020, the ordinance takes effect immediately:

(A) upon the expiration of the remonstrance and appeal period under section 11, 11.1, or 15.5 of this chapter; and

(B) after the publication, filing, and recording required by section 22(a) of this chapter. ~~if all of the following conditions are met:~~

(2) In the case of an annexation for which an annexation ordinance was adopted after March 31, 2020, the ordinance takes effect as set forth in section 7(c)(4) of this chapter.

(b) This section applies to an annexation that meets all of the



following conditions:

- (1) The annexed territory has no population.
- (2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.
- (3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits.

SECTION 11. IC 36-4-3-11, AS AMENDED BY P.L.206-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. Except as provided in section 5.1(i) of this chapter (**as in effect on July 1, 2015**) and subsections (e) and (f), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

- (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. If the court determines that the remonstrance is sufficient, the court shall fix a time, within sixty (60) days after the court's determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.



(d) This subsection applies only to an annexation for which an annexation ordinance was adopted after June 30, 2015, **and before April 1, 2020**. If the requirements of section 11.3(c) or (after December 31, 2016) section 11.4 of this chapter are met, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located:

- (1) the signed remonstrances filed with the county auditor;
- (2) the county auditor's certification under section 11.2(i) of this chapter;
- (3) the annexation ordinance; and
- (4) a statement of the reason why the annexation should not take place.

The remonstrance must be filed with the court not later than fifteen (15) business days after the date the county auditor files the certificate with the legislative body under section 11.2(i) of this chapter. After a remonstrance petition is filed with the court, any person who signed a remonstrance may file with the court a verified, written revocation of the person's opposition to the annexation.

(e) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This subsection applies if:

- (1) the territory to be annexed consists of not more than one hundred (100) parcels; and
- (2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).

SECTION 12. IC 36-4-3-11.1, AS ADDED BY P.L.228-2015, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.1. (a) This section applies only to an annexation ordinance adopted after June 30, 2015, **and before April 1, 2020**.

(b) After a municipality adopts an annexation ordinance in accordance with all applicable notice and hearing requirements under this chapter, the annexation may not proceed unless the annexing



1 municipality completes the procedures set forth in this section.

2 (c) The proper officers of the municipality must give notice of the
3 applicability of the remonstrance process by providing notice by:

4 (1) publication in accordance with IC 5-3-1; and

5 (2) first class mail or certified mail with return receipt requested,
6 or any other means of delivery that includes a return receipt;
7 to the circuit court clerk and to owners of real property described in
8 section 2.2 of this chapter. Notice under this section must be published
9 and mailed or delivered on the same date that notice of the adoption of
10 the annexation ordinance is published under section 7 of this chapter.

11 (d) The notice of the applicability of the remonstrance process under
12 subsection (c) must state the following:

13 (1) Any owners of real property within the area proposed to be
14 annexed who want to remonstrate against the proposed
15 annexation must complete and file remonstrance petitions in
16 compliance with this chapter. The notice must state:

17 (A) that remonstrance petitions must be filed not later than
18 ninety (90) days after the date that notice of the adoption of the
19 annexation ordinance was published under section 7 of this
20 chapter; and

21 (B) the last date in accordance with clause (A) that
22 remonstrance petitions must be filed with the county auditor
23 to be valid.

24 (2) A remonstrance petition may be signed at the locations
25 provided by the municipality under subsection (e). The notice
26 must provide the following information regarding each location:

27 (A) The address of the location.

28 (B) The dates and hours during which a remonstrance petition
29 may be signed at the location.

30 (e) Beginning the day after publication of the notice under
31 subsection (c) and ending not later than ninety (90) days after
32 publication of the notice under subsection (c), the municipality shall
33 provide both of the following:

34 (1) At least one (1) location in the offices of the municipality
35 where a person may sign a remonstrance petition during regular
36 business hours.

37 (2) At least one (1) additional location that is available for at least
38 five (5) days, where a person may sign a remonstrance petition.

39 The location must meet the following requirements:

40 (A) The location must be in a public building:

41 (i) owned or leased by the state or a political subdivision,
42 including a public library, community center, or parks and



- 1 recreation building; and
 2 (ii) located within the boundaries of the municipality or the
 3 annexation territory.
 4 (B) The location must be open according to the following:
 5 (i) On a day that the location is open on a weekday, the
 6 location must be open at a minimum from 5 p.m. to 9 p.m.
 7 (ii) On a day that the location is open on a Saturday or
 8 Sunday, the location must be open at least four (4) hours
 9 during the period from 9 a.m. to 5 p.m.
 10 (f) An additional location may not be open on a day that is a legal
 11 holiday. At any location and during the hours that a remonstrance
 12 petition may be signed, the municipality shall have a person present:
 13 (1) to witness the signing of remonstrance petitions; and
 14 (2) who shall swear and affirm before a notary public that the
 15 person witnessed each person sign the remonstrance petition.
 16 SECTION 13. IC 36-4-3-11.2, AS AMENDED BY P.L.206-2016,
 17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 UPON PASSAGE]: Sec. 11.2. (a) This section applies only to an
 19 annexation ordinance adopted after June 30, 2015, **and before April**
 20 **1, 2020.**
 21 (b) A remonstrance petition may be filed by an owner of real
 22 property that:
 23 (1) is within the area to be annexed;
 24 (2) was not exempt from property taxes under IC 6-1.1-10 or any
 25 other state law for the immediately preceding year; and
 26 (3) is not subject to a valid waiver of remonstrance.
 27 (c) A remonstrance petition must comply with the following in order
 28 to be effective:
 29 (1) Each signature on a remonstrance petition must be dated, and
 30 the date of the signature may not be earlier than the date on which
 31 the remonstrance forms may be issued by the county auditor
 32 under subsection (e)(7).
 33 (2) Each person who signs a remonstrance petition must indicate
 34 the address of the real property owned by the person in the area
 35 to be annexed.
 36 (3) A remonstrance petition must be verified in compliance with
 37 subsection (e).
 38 (d) The state board of accounts shall design the remonstrance forms
 39 to be used solely in the remonstrance process described in this section.
 40 The state board of accounts shall provide the forms to the county
 41 auditor in an electronic format that permits the county auditor to copy
 42 or reproduce the forms using:



1 (1) the county auditor's own equipment; or

2 (2) a commercial copying service.

3 The annexing municipality shall reimburse the county auditor for the
4 cost of reproducing the remonstrance forms.

5 (e) The county auditor's office shall issue remonstrance forms
6 accompanied by instructions detailing all of the following
7 requirements:

8 (1) The closing date for the remonstrance period.

9 (2) Only one (1) person having an interest in each single property
10 as evidenced by the tax duplicate is considered an owner of
11 property and may sign a remonstrance petition. A person is
12 entitled to sign a petition only one (1) time in a remonstrance
13 process, regardless of whether the person owns more than one (1)
14 parcel of real property.

15 (3) An individual may not be:

16 (A) compensated for; or

17 (B) reimbursed for expenses incurred in;
18 circulating a remonstrance petition and obtaining signatures.

19 (4) The remonstrance petition may be executed in several
20 counterparts, the total of which constitutes the remonstrance
21 petition. An affidavit of the person circulating a counterpart must
22 be attached to the counterpart. The affidavit must state that each
23 signature appearing on the counterpart was affixed in the person's
24 presence and is the true and lawful signature of the signer. The
25 affidavit must be notarized.

26 (5) A remonstrance petition that is not executed in counterparts
27 must be verified by the person signing the petition in the manner
28 prescribed by the state board of accounts and notarized.

29 (6) A remonstrance petition may be delivered to the county
30 auditor's office in person or by:

31 (A) certified mail, return receipt requested; or

32 (B) any other means of delivery that includes a return receipt.

33 The remonstrance petition must be postmarked not later than the
34 closing date for the remonstrance period.

35 (7) The county auditor's office may not issue a remonstrance
36 petition earlier than the day that notice is published under section
37 11.1 of this chapter. The county auditor's office shall certify the
38 date of issuance on each remonstrance petition. Any person may
39 pick up additional copies of the remonstrance petition to
40 distribute to other persons.

41 (8) A person who signs a remonstrance petition may withdraw the
42 person's signature from a remonstrance petition before a



1 remonstrance petition is filed with the county auditor by filing a
 2 verified request to remove the person's name from the
 3 remonstrance petition. Names may not be added to a
 4 remonstrance petition after the remonstrance petition is filed with
 5 the county auditor.

6 (f) The county auditor shall prepare and update weekly a list of the
 7 persons who have signed a remonstrance petition. The list must include
 8 a statement that the list includes all persons who have signed a
 9 remonstrance petition as of a particular date, and does not represent a
 10 list of persons certified by the county auditor as actual landowners in
 11 the annexation territory using the auditor's current tax records under
 12 subsection (i). The county auditor shall post the list in the office of the
 13 county auditor. The list is a public record under IC 5-14-3.

14 (g) Not later than five (5) business days after receiving the
 15 remonstrance petition, the county auditor shall submit a copy of the
 16 remonstrance petition to the legislative body of the annexing
 17 municipality.

18 (h) Not later than fifteen (15) business days after the legislative
 19 body of the annexing municipality receives a copy of the remonstrance
 20 petition from the county auditor, the annexing municipality shall
 21 provide documentation to the county auditor regarding any valid waiver
 22 of the right of remonstrance that exists on the property within the
 23 annexation territory.

24 (i) Not later than fifteen (15) business days after receiving the
 25 documentation regarding any valid waiver of the right of remonstrance
 26 from the annexing municipality under subsection (h), if any, the county
 27 auditor's office shall make a final determination of the number of
 28 owners of real property within the territory to be annexed:

29 (1) who signed the remonstrance; and

30 (2) whose property is not subject to a valid waiver of the right of
 31 remonstrance;

32 using the auditor's current tax records as provided in section 2.2 of this
 33 chapter. The county auditor shall file a certificate with the legislative
 34 body of the annexing municipality certifying the number of property
 35 owners not later than five (5) business days after making the
 36 determination.

37 SECTION 14. IC 36-4-3-11.3, AS ADDED BY P.L.228-2015,
 38 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 11.3. (a) This section applies only to an
 40 annexation ordinance adopted after June 30, 2015, **and before April**
 41 **1, 2020.**

42 (b) An annexation ordinance is void if a written remonstrance



1 petition is signed by one (1) of the following:

2 (1) At least sixty-five percent (65%) of the owners of land in the
3 annexed territory. An owner of land may not:

4 (A) be counted in calculating the total number of owners of
5 land in the annexation territory; or

6 (B) have the owner's signature counted on a remonstrance;
7 with regard to any single property that an owner has an interest in
8 that was exempt from property taxes under IC 6-1.1-10 or any
9 other state law for the immediately preceding year.

10 (2) The owners of at least eighty percent (80%) in assessed
11 valuation of the land in the annexed territory. Land that was
12 exempt from property taxes under IC 6-1.1-10 or any other state
13 law for the immediately preceding year may not be included in
14 calculating the total assessed valuation of the land in the
15 annexation territory. The court may not count the owner's
16 signature on a remonstrance with regard to any single property
17 that the owner has an interest in that was exempt from property
18 taxes under IC 6-1.1-10 or any other state law for the immediately
19 preceding year.

20 (c) The annexation may be appealed to the court under section 11
21 of this chapter, if a written remonstrance is signed by one (1) of the
22 following:

23 (1) At least fifty-one percent (51%) but less than sixty-five
24 percent (65%) of the owners of land. An owner of land may not:

25 (A) be counted in calculating the total number of owners of
26 land in the annexation territory; or

27 (B) have the owner's signature counted on a remonstrance;
28 with regard to any single property that the owner has an interest
29 in that was exempt from property taxes under IC 6-1.1-10 or any
30 other state law for the immediately preceding year.

31 (2) The owners of at least sixty percent (60%) but less than eighty
32 percent (80%) in assessed valuation of land in the annexed
33 territory. Land that was exempt from property taxes under
34 IC 6-1.1-10 or any other state law for the immediately preceding
35 year may not be included in calculating the total assessed
36 valuation of the land in the annexation territory. The court may
37 not count an owner's signature on a remonstrance with regard to
38 any single property that the owner has an interest in that was
39 exempt from property taxes under IC 6-1.1-10 or any other state
40 law for the immediately preceding year.

41 SECTION 15. IC 36-4-3-11.4, AS ADDED BY P.L.228-2015,
42 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



UPON PASSAGE]: Sec. 11.4. (a) This section applies only to an annexation that ~~the~~ meets all of the following requirements:

(1) The annexation ordinance is adopted after December 31, 2016, **and before April 1, 2020.**

(2) Notwithstanding the contiguity requirements of section 1.5 of this chapter, at least one-tenth (1/10) of the aggregate external boundaries of the territory sought to be annexed coincides with the boundaries of:

(A) the municipality; and

(B) the site of an economic development project.

(b) As used in this section, "economic development project" means any project developed by the municipality that meets all of the following requirements:

(1) The annexing municipality determines that the project will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the municipality; or

(C) retain or expand a significant business enterprise within the municipality.

(2) The project involves expenditures by the annexing municipality for any of the following:

(A) Land acquisition, interests in land, site improvements, infrastructure improvements, buildings, or structures.

(B) Rehabilitation, renovation, and enlargement of buildings and structures.

(C) Machinery, equipment, furnishings, or facilities.

(D) Substance removal or remedial action.

(c) Notwithstanding section 11.3(b) of this chapter, even if a remonstrance has enough signatures to satisfy the requirements of section 11.3(b) of this chapter, the annexation ordinance is not void and may be appealed to the court under section 11 of this chapter, if all of the following requirements are met:

(1) The economic development project site needs the following capital services that the municipality is lawfully able to provide:

(A) water;

(B) sewer;

(C) gas; or

(D) any combination of the capital services described in clauses (A) through (C).

(2) The municipality finds that it is in the municipality's best interest to annex the annexation territory in order to extend,



construct, or operate the capital services that are provided to the economic development project site.

(3) Before the date the annexation ordinance is adopted, a taxpayer whose business will occupy the economic development project site has done at least one (1) of the following:

(A) Filed a statement of benefits under IC 6-1.1-12.1 with the designating body for the annexing municipality for a deduction or abatement.

(B) Entered into an agreement with the Indiana economic development corporation for a credit under IC 6-3.1-13.

(d) If the economic development project:

(1) has not commenced within twelve (12) months after the date the annexation ordinance is adopted; or

(2) is not completed within thirty-six (36) months after the date the annexation ordinance is adopted;

the annexation territory is disannexed from the municipality and reverts to the jurisdiction of the unit having jurisdiction before the annexation.

For purposes of this subsection, ~~a~~ **an** economic development project is considered to have commenced on the day that the physical erection, installation, alteration, repair, or remodeling of a building or structure commences on the site of the economic development project.

SECTION 16. IC 36-4-3-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. **(a)** A landowner in an unincorporated area is not required to grant a municipality a waiver against remonstrance as a condition of connection to a sewer or water service if all of the following conditions apply:

(1) The landowner is required to connect to the sewer or water service because a person other than the landowner has polluted or contaminated the area.

(2) A person other than the landowner or the municipality has paid the cost of connection to the service.

(b) Notwithstanding any other law, a waiver against remonstrance is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before April 1, 2020.

SECTION 17. IC 36-4-3-11.6, AS ADDED BY P.L.228-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.6. (a) This section applies to a remonstrance filed after June 30, 2015, **and before April 1, 2020.**

(b) If the court orders an annexation not to take place after a hearing under section 11 of this chapter, the remonstrators shall be reimbursed



by the annexing municipality for any reasonable attorney's fees, including litigation expenses and appeal costs:

(1) that are incurred:

(A) after the date the annexation ordinance is adopted; and

(B) in remonstrating against the annexation; and

(2) not to exceed thirty-seven thousand five hundred dollars (\$37,500).

SECTION 18. IC 36-4-3-11.7, AS AMENDED BY P.L.257-2019, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.7. (a) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall, within a reasonable time after the recording of a deed to property located within the municipality, provide written notice to the property owner that a waiver of the right of remonstrance exists with respect to the property.

(b) A remonstrance waiver executed before July 1, 2003, is void. This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(c) A remonstrance waiver executed after June 30, 2003, and before July 1, 2019, is subject to the following:

(1) The waiver is void unless the waiver was recorded:

(A) before January 1, 2020; and

(B) with the county recorder of the county where the property subject to the waiver is located.

(2) A waiver that is not void under subdivision (1) expires not later than fifteen (15) years after the date the waiver is executed.

This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(d) A remonstrance waiver executed after June 30, 2019, is ~~subject to the following: (1) The waiver is void unless the waiver is must be recorded (A) not later than thirty (30) business days after the date the waiver was executed and (B) with the county recorder of the county where the property subject to the waiver is located. (2) A waiver that is not void under subdivision (1) expires not later than fifteen (15) years after the date the waiver is executed.~~ This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(e) Notwithstanding any other law, a remonstrance waiver is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before April 1, 2020.

SECTION 19. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,



SECTION 117, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: Sec. 12. ~~(a)~~ The circuit or superior
court shall:

(1) on the date fixed under:

(A) section 11 of this chapter **(in the case of an annexation
for which an annexation ordinance is adopted before April
1, 2020)**, hear and determine the remonstrance without a jury;

or

(B) section 5.5 of this chapter **(in the case of an annexation
for which an annexation ordinance is adopted after March
31, 2020)**, hear and determine the petition without a jury;

and

(2) without delay, enter judgment on the question of the
annexation according to the evidence that either party may
introduce.

~~(b) If the court enters judgment in favor of the annexation, the
annexation may not take effect during the year preceding the year in
which a federal decennial census is conducted. An annexation that
would otherwise take effect during the year preceding a year in which
a federal decennial census is conducted takes effect January 1 of the
year in which a federal decennial census is conducted.~~

SECTION 20. IC 36-4-3-13, AS AMENDED BY P.L.206-2016,
SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]: Sec. 13. (a) Except as provided in subsection (e),
at the hearing under section 12 of this chapter, the court shall order a
proposed annexation to take place if the following requirements are
met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(3) The requirements of subsection (i) **(in the case of an
annexation for which an annexation ordinance is adopted
before April 1, 2020)**.

(b) The requirements of this subsection are met if the evidence
establishes the following:

(1) That the territory sought to be annexed is contiguous to the
municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to
be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or
industrial uses.



1 (c) The requirements of this subsection are met if the evidence
2 establishes one (1) of the following:

3 (1) That the territory sought to be annexed is:

4 (A) contiguous to the municipality as required by section 1.5
5 of this chapter, except that at least one-fourth (1/4), instead of
6 one-eighth (1/8), of the aggregate external boundaries of the
7 territory sought to be annexed must coincide with the
8 boundaries of the municipality; and

9 (B) needed and can be used by the municipality for its
10 development in the reasonably near future.

11 (2) This subdivision applies only to an annexation for which an
12 annexation ordinance is adopted after December 31, 2016, **and**
13 **before April 1, 2020.** That the territory sought to be annexed
14 involves an economic development project and the requirements
15 of section 11.4 of this chapter are met.

16 (d) The requirements of this subsection are met if the evidence
17 establishes that the municipality has developed and adopted a written
18 fiscal plan and has established a definite policy, by resolution of the
19 legislative body as set forth in section 3.1 of this chapter. The fiscal
20 plan must show the following:

21 (1) The cost estimates of planned services to be furnished to the
22 territory to be annexed. The plan must present itemized estimated
23 costs for each municipal department or agency.

24 (2) The method or methods of financing the planned services. The
25 plan must explain how specific and detailed expenses will be
26 funded and must indicate the taxes, grants, and other funding to
27 be used.

28 (3) The plan for the organization and extension of services. The
29 plan must detail the specific services that will be provided and the
30 dates the services will begin.

31 (4) That planned services of a noncapital nature, including police
32 protection, fire protection, street and road maintenance, and other
33 noncapital services normally provided within the corporate
34 boundaries, will be provided to the annexed territory within one
35 (1) year after the effective date of annexation and that they will be
36 provided in a manner equivalent in standard and scope to those
37 noncapital services provided to areas within the corporate
38 boundaries regardless of similar topography, patterns of land use,
39 and population density.

40 (5) That services of a capital improvement nature, including street
41 construction, street lighting, sewer facilities, water facilities, and
42 stormwater drainage facilities, will be provided to the annexed



territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(6) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect of the proposed annexation on taxpayers in each of the political subdivisions to which the proposed annexation applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions for four (4) years after the effective date of the annexation.

(7) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect the proposed annexation will have on municipal finances, specifically how municipal tax revenues will be affected by the annexation for four (4) years after the effective date of the annexation.

(8) This subdivision applies to a fiscal plan prepared after June 30, 2015. Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation.

(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the annexation territory and the following information regarding each parcel:

(A) The name of the owner of the parcel.

(B) The parcel identification number.

(C) The most recent assessed value of the parcel.

(D) The existence of a known waiver of the right to remonstrate on the parcel. This clause applies only to a fiscal plan prepared after June 30, 2016, **and before April 1, 2020.**

(e) At the hearing under section 12 of this chapter **with regard to an annexation for which an annexation ordinance was adopted before April 1, 2020**, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions that are applicable to the annexation exist in the territory proposed to be annexed:

(A) This clause applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. The following services are adequately furnished by a provider



other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:

(i) the personal finances; or

(ii) the business finances;

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns, may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015, **and before April 1, 2020**. One (1) of the following opposes the annexation:

(i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.

(F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of



not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) **This subsection applies only to an annexation for which an annexation ordinance is adopted before April 1, 2020.** The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

(h) A municipality that prepares a fiscal plan after June 30, 2015, must comply with this subsection. A municipality may not amend the fiscal plan after the date that:

- (1) a remonstrance is filed with the court under section 11 of this chapter **(in the case of an annexation for which an annexation ordinance was adopted before April 1, 2020); or**
- (2) **a petition is filed with the court under section 5.5 of this chapter (in the case of an annexation for which an annexation ordinance was adopted after March 31, 2020);**

unless amendment of the fiscal plan is consented to by ~~at least sixty-five percent (65%)~~ of the persons who signed the remonstrance **or the petition.**

(i) The municipality must submit proof that the municipality has complied with:

- ~~(A)~~ (1) the outreach program requirements and notice requirements of section 1.7 of this chapter; and



1 ~~(B)~~ **(2)** the requirements of section 11.1 of this chapter **(in the**
 2 **case of an annexation for which an annexation ordinance was**
 3 **adopted after June 30, 2015, and before April 1, 2020).**

4 SECTION 21. IC 36-4-3-15, AS AMENDED BY P.L.228-2015,
 5 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: Sec. 15. (a) The court's judgment under section 12
 7 or 15.5 of this chapter must specify the annexation ordinance. ~~on which~~
 8 ~~the remonstrance is based.~~ The clerk of the court shall deliver a
 9 certified copy of the final and unappealable judgment to the clerk of the
 10 municipality. The clerk of the municipality shall:

- 11 (1) record the judgment in the clerk's ordinance record; and
 12 (2) make a cross-reference to the record of the judgment on the
 13 margin of the record of the annexation ordinance.

14 (b) If a final and unappealable judgment under section 12 or 15.5 of
 15 this chapter is adverse to annexation, the municipality may not make
 16 further attempts to annex the territory or any part of the territory during
 17 the four (4) years after the later of:

- 18 (1) the judgment of the circuit or superior court; or
 19 (2) the date of the final disposition of all appeals to a higher court;
 20 unless the annexation is petitioned for under section 5 or 5.1 of this
 21 chapter.

22 (c) This subsection applies if a municipality repeals the annexation
 23 ordinance:

- 24 (1) less than sixty-one (61) days after the publication of the
 25 ordinance under section 7(a) of this chapter; and
 26 (2) before the hearing commences:

27 **(A) on the remonstrance under section 11(c) of this chapter (in**
 28 **the case of an annexation for which an annexation**
 29 **ordinance is adopted before April 1, 2020); or**

30 **(B) on the petition under section 12 of this chapter (in the**
 31 **case of an annexation for which an annexation ordinance**
 32 **is adopted after March 31, 2020).**

33 A municipality may not make further attempts to annex the territory or
 34 any part of the territory during the twelve (12) months after the date the
 35 municipality repeals the annexation ordinance. This subsection does
 36 not prohibit an annexation of the territory or part of the territory that is
 37 petitioned for under section 5 or 5.1 of this chapter.

38 (d) This subsection applies if a municipality repeals the annexation
 39 ordinance:

- 40 (1) at least sixty-one (61) days but not more than one hundred
 41 twenty (120) days after the publication of the ordinance under
 42 section 7(a) of this chapter; and



(2) before the hearing commences:

(A) on the remonstrance under section 11(c) of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020); or**

(B) on the petition under section 12 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted after March 31, 2020).**

A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(e) This subsection applies if a municipality repeals the annexation ordinance:

(1) either:

(A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences:

(i) on the remonstrance under section 11(c) of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020); or**

(ii) on the petition under section 12 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted after March 31, 2020).**

(B) after the hearing commences:

(i) on the remonstrance as set forth in section 11(c) of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020); or**

(ii) on the petition under section 12 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted after March 31, 2020); and**

(2) before the date of the judgment of the circuit or superior court as set forth in subsection (b).

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) An annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

SECTION 22. IC 36-4-3-15.3, AS AMENDED BY THE



1 TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL
 2 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 15.3. (a) As used in this section, "prohibition
 4 against annexation" means that a municipality may not make further
 5 attempts to annex certain territory or any part of that territory.

6 (b) As used in this section, "settlement agreement" means a written
 7 court approved settlement of a dispute involving annexation under this
 8 chapter between a municipality and remonstrators.

9 (c) Under a settlement agreement between the annexing
 10 municipality and either:

11 (1) seventy-five percent (75%) or more of all landowners
 12 participating in the remonstrance; or

13 (2) the owners of more than seventy-five percent (75%) in
 14 assessed valuation of the land owned by all landowners
 15 participating in the remonstrance;

16 the parties may mutually agree to a prohibition against annexation of
 17 all or part of the territory by the municipality for a period not to exceed
 18 twenty (20) years. The settlement agreement may address issues and
 19 bind the parties to matters relating to the provision by a municipality
 20 of planned services of a noncapital nature and services of a capital
 21 improvement nature (as described in section 13(d) of this chapter), in
 22 addition to a prohibition against annexation. The settlement agreement
 23 is binding upon the successors, heirs, and assigns of the parties to the
 24 agreement. However, the settlement agreement may be amended or
 25 revised periodically on further agreement between the annexing
 26 municipality and landowners who meet the qualifications of ~~subsection~~
 27 ~~(e)(1) or (e)(2):~~ **subdivision (1) or (2).**

28 **(d) A settlement agreement executed after March 31, 2020, is**
 29 **void.**

30 SECTION 23. IC 36-4-3-15.5, AS AMENDED BY P.L.207-2014,
 31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 15.5. (a) Except as provided in subsection (b):

33 (1) an owner of land within one-half (1/2) mile of territory
 34 proposed to be annexed under this chapter; or

35 (2) a municipality located in the same county as the territory
 36 proposed to be annexed;

37 may, not later than sixty (60) days after the publication of the
 38 annexation ordinance, appeal that annexation to a circuit court or
 39 superior court of a county in which the annexed territory is located. The
 40 complaint must state that the reason the annexation should not take
 41 place is that the territory sought to be annexed is not contiguous to the
 42 annexing municipality.



(b) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Either of the following may appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located:

(1) An owner of land within one-half (1/2) mile of the territory proposed to be annexed under this chapter.

(2) A municipality located in the same county as the territory proposed to be annexed.

An appeal under this subsection must be filed not later than thirty (30) days after the publication of the annexation ordinance. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(c) Upon the determination of the court that the complaint is sufficient, the judge shall fix a time for a hearing to be held not later than sixty (60) days after the determination. Notice of the proceedings shall be served by summons upon the proper officers of the annexing municipality. The municipality shall become a defendant in the cause and be required to appear and answer. The judge of the circuit or superior court shall, upon the date fixed, proceed to hear and determine the appeal without a jury, and shall, without delay, give judgment upon the question of the annexation according to the evidence introduced by the parties. If the evidence establishes that the territory sought to be annexed is contiguous to the annexing municipality, the court shall deny the appeal and dismiss the proceeding. If the evidence does not establish the foregoing factor, the court shall issue an order to prevent the proposed annexation from taking effect. The laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had. Costs follow judgment. Pending the appeal, and during the time within which the appeal may be taken, the territory sought to be annexed is not a part of the annexing municipality.

~~(d) If the court enters a judgment in favor of the municipality, the annexation may not take effect during the year preceding a year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.~~

SECTION 24. IC 36-4-3-19, AS AMENDED BY P.L.113-2010, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) If disannexation is ordered under this chapter by the works board of a municipality and no



1 appeal is taken, the clerk of the municipality shall, without
 2 compensation and not later than ten (10) days after the order is made,
 3 make and certify a complete transcript of the disannexation
 4 proceedings to the auditor of each county in which the disannexed lots
 5 or lands lie and to the office of the secretary of state. The county
 6 auditor shall list those lots or lands appropriately for taxation. The
 7 proceedings of the works board shall not be certified to the county
 8 auditor or to the office of the secretary of state if an appeal to the
 9 circuit court has been taken.

10 (b) In all proceedings begun in or appealed to the circuit court, if
 11 vacation or disannexation is ordered, the clerk of the court shall
 12 immediately after the judgment of the court, or after a decision on
 13 appeal to the supreme court or court of appeals if the judgment on
 14 appeal is not reversed, certify the judgment of the circuit court, as
 15 affirmed or modified, to each of the following:

- 16 (1) The auditor of each county in which the lands or lots affected
- 17 lie, on receipt of one dollar (\$1) for the making and certifying of
- 18 the transcript from the petitioners for the disannexation.
- 19 (2) The office of the secretary of state.
- 20 (3) The circuit court clerk of each county in which the lands or
- 21 lots affected are located.
- 22 (4) The county election board of each county in which the lands
- 23 or lots affected are located.
- 24 (5) If a board of registration exists, the board of each county in
- 25 which the lands or lots affected are located.
- 26 (6) The office of census data established by IC 2-5-1.1-12.2.

27 (c) The county auditor shall forward a list of lots or lands
 28 disannexed under this section to the following:

- 29 (1) The county highway department of each county in which the
- 30 lands or lots affected are located.
- 31 (2) The county surveyor of each county in which the lands or lots
- 32 affected are located.
- 33 (3) Each plan commission, if any, that lost or gained jurisdiction
- 34 over the disannexed territory.
- 35 (4) The township trustee of each township that lost or gained
- 36 jurisdiction over the disannexed territory.
- 37 (5) The sheriff of each county in which the lands or lots affected
- 38 are located.
- 39 (6) The office of the secretary of state.
- 40 (7) The office of census data established by IC 2-5-1.1-12.2.

41 The county auditor may require the clerk of the municipality to furnish
 42 an adequate number of copies of the list of disannexed lots or lands or



1 may charge the clerk a fee for photoreproduction of the list.

2 (d) A disannexation described by this section takes effect upon the
3 clerk of the municipality filing the order with:

4 (1) the county auditor of each county in which the annexed
5 territory is located; and

6 (2) the circuit court clerk, or if a board of registration exists, the
7 board of each county in which the annexed territory is located.

8 (e) The clerk of the municipality shall notify the office of the
9 secretary of state and the office of census data established by
10 IC 2-5-1.1-12.2 of the date a disannexation is effective under this
11 chapter.

12 ~~(f) A disannexation order under this chapter may not take effect~~
13 ~~during the year preceding a year in which a federal decennial census is~~
14 ~~conducted. A disannexation order that would otherwise take effect~~
15 ~~during the year preceding a year in which a federal decennial census is~~
16 ~~conducted takes effect January 1 of the year in which a federal~~
17 ~~decennial census is conducted.~~

18 SECTION 25. IC 36-4-3-22, AS AMENDED BY P.L.228-2015,
19 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 UPON PASSAGE]: Sec. 22. (a) The clerk of the municipality shall file:

21 (1) each annexation ordinance: ~~against which:~~

22 (A) **against which:**

23 (i) a remonstrance **(in the case of an annexation for which**
24 **an annexation ordinance is adopted before April 1,**
25 **2020); or**

26 (ii) an appeal;

27 has not been filed during the period permitted under this
28 chapter; or

29 (B) **against which** a remonstrance was filed without a
30 sufficient number of signatures to meet the requirements of
31 section 11.3(c) of this chapter, in the case of an annexation for
32 which an annexation ordinance was adopted after June 30,
33 2015, **and before April 1, 2020; or**

34 (2) the certified copy of a final and unappealable judgment
35 ordering an annexation to take place;

36 with the county auditor, circuit court clerk, and board of registration (if
37 a board of registration exists) of each county in which the annexed
38 territory is located, the office of the secretary of state, and the office of
39 census data established by IC 2-5-1.1-12.2. The clerk of the
40 municipality shall record each annexation ordinance adopted under this
41 chapter in the office of the county recorder of each county in which the
42 annexed territory is located.



(b) The ordinance or judgment must be filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for:

(A) a remonstrance **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020);**

or

(B) an appeal **under section 15.5 of this chapter;**

(2) the delivery of a certified order under section 15 of this chapter; or

(3) the date the county auditor files the written certification with the legislative body under section 11.2 of this chapter, in the case of an annexation:

(A) described in subsection (a)(1)(B); and

(B) **for which an annexation ordinance is adopted before April 1, 2020.**

(c) Failure to record the annexation ordinance as provided in subsection (a) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department of each county in which the lots or lands affected are located.

(2) The county surveyor of each county in which the lots or lands affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 26. IC 36-4-7-7 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The fiscal
 2 officer shall present the report of budget estimates to the city legislative
 3 body under IC 6-1.1-17. After reviewing the report, the legislative body
 4 shall prepare an ordinance fixing the rate of taxation for the ensuing
 5 budget year and an ordinance making appropriations for the estimated
 6 department budgets and other city purposes during the ensuing budget
 7 year. The legislative body, in the appropriation ordinance, may reduce
 8 any estimated item from the figure submitted in the report of the fiscal
 9 officer, but it may increase an item only if the executive recommends
 10 an increase. The legislative body shall promptly act on the
 11 appropriation ordinance.

12 (b) In preparing the ordinances described in subsection (a) the
 13 legislative body shall make an allowance for the cost of fire protection
 14 to annexed territory described in ~~IC 36-4-3-7(d)~~; **IC 36-4-3-7(e)** for the
 15 year fire protection is first offered to that territory.

16 SECTION 27. IC 36-9-22-2, AS AMENDED BY P.L.150-2019,
 17 SECTION 1, AND AS AMENDED BY P.L.257-2019, SECTION 162,
 18 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL
 19 OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND
 20 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
 21 PASSAGE]: Sec. 2. (a) The power of the municipal works board to fix
 22 the terms of a contract under this section applies to contracts for the
 23 installation of sewage works that have not been finally approved or
 24 accepted for full maintenance and operation by the municipality on July
 25 1, 1979.

26 (b) The works board of a municipality may contract with owners of
 27 real property for the construction of sewage works within the
 28 municipality or within four (4) miles outside its corporate boundaries
 29 in order to provide service for the area in which the real property of the
 30 owners is located. The contract must provide, for a period of not to
 31 exceed fifteen (15) years, for the payment to the owners and their
 32 assigns by any owner of real property who:

- 33 (1) did not contribute to the original cost of the sewage works;
- 34 and
- 35 (2) subsequently taps into, uses, or deposits sewage or storm
- 36 waters in the sewage works or any lateral sewers connected to
- 37 them;

38 of a fair pro rata share of the cost of the construction of the sewage
 39 works, subject to the rules of the board and notwithstanding any other
 40 law relating to the functions of local governmental entities. However,
 41 the contract does not apply to any owner of real property who is not a
 42 party to the contract unless the contract or (after June 30, 2013) a



signed memorandum of the contract has been recorded in the office of the recorder of the county in which the real property of the owner is located before the owner taps into or connects to the sewers and facilities. The board may provide that the fair pro rata share of the cost of construction includes interest at a rate not exceeding the amount of interest allowed on judgments, and the interest shall be computed from the date the sewage works are approved until the date payment is made to the municipality.

(c) The contract must include, as part of the consideration running to the municipality, the release of the right of:

(1) the parties to the contract; and

(2) the successors in title of the parties to the contract;

to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. Any person tapping into or connecting to the sewage works contracted for is considered to waive the person's rights to remonstrate against the annexation of the area served by the sewage works.

(d) Notwithstanding subsection (c), the works board of a municipality may waive the provisions of subsection (c) in the contract if:

(1) the works board considers a waiver of subsection (c) to be in the best interests of the municipality; *or*

(2) *the contract involves connection to the sewage works under IC 36-9-22.5.*

(e) This subsection does not affect any rights or liabilities accrued, or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, *if the release of the right to remonstrate is not void under subsection (i), (j), or (k), the release* is binding on a successor in title to a party to the contract only if the successor in title:

(1) has actual notice of the release; or

(2) has constructive notice of the release because the contract, or a signed memorandum of the contract stating the release, has been recorded in the chain of title of the property.

(f) Subsection (c) does not apply to a landowner if all of the following conditions apply:

(1) The landowner is required to connect to the sewage works because a person other than the landowner has polluted or contaminated the area.

(2) The costs of extension of or connection to the sewage works are paid by a person other than the landowner or the municipality.



(g) Subsection (c) does not apply to a landowner who taps into, connects to, or is required to tap into or connect to the sewage works of a municipality only because the municipality provides wholesale sewage service (as defined in IC 8-1-2-61.7) to another municipality that provides sewage service to the landowner.

~~(h) Notwithstanding any other law, a waiver of the right of remonstrance executed after June 30, 2015, expires not later than fifteen (15) years after the date the waiver was executed.~~

~~(i)~~ (h) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall provide written notice to any successor in title to property within a reasonable time after the deed is recorded, that a waiver of the right of remonstrance exists with respect to the property.

(i) A remonstrance waiver executed on or before July 1, 2003, is void. This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(j) A remonstrance waiver executed after June 30, 2003, and not later than June 30, 2019, is subject to the following:

(1) The waiver is void unless the waiver was recorded ~~(A)~~ before January 1, 2020 and

~~(B)~~ with the county recorder of the county where the property subject to the waiver is located.

(2) A waiver that is not void under subdivision (1) **or subsection (l)** expires not later than fifteen (15) years after the date the waiver is executed.

This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(k) A remonstrance waiver executed after June 30, 2019, is ~~subject to the following:~~ ~~(1) The waiver is void unless the waiver is must be recorded (A) not later than thirty (30) business days after the date the waiver was executed and (B) with the county recorder of the county where the property subject to the waiver is located. (2) A waiver that is not void under subdivision (1) expires not later than fifteen (15) years after the date the waiver is executed.~~ This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(l) Notwithstanding any other law, a remonstrance waiver is effective and binding on a landowner or a successor in title to a party to the contract only with regard to an annexation for which the annexation ordinance was adopted before April 1, 2020.

SECTION 28. IC 36-9-25-14, AS AMENDED BY P.L.150-2019, SECTION 3, AND AS AMENDED BY P.L.257-2019, SECTION 166,



1 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL
 2 OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND
 3 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
 4 PASSAGE]: Sec. 14. (a) As to each municipality to which this chapter
 5 applies:

6 (1) all the territory included within the corporate boundaries of
 7 the municipality; and

8 (2) any territory, town, addition, platted subdivision, or unplatted
 9 land lying outside the corporate boundaries of the municipality
 10 that has been taken into the district in accordance with a prior
 11 statute, the sewage or drainage of which discharges into or
 12 through the sewage system of the municipality;

13 constitutes a special taxing district for the purpose of providing for the
 14 sanitary disposal of the sewage of the district in a manner that protects
 15 the public health and prevents the undue pollution of watercourses of
 16 the district.

17 (b) Upon request by:

18 (1) a resolution adopted by the legislative body of another
 19 municipality in the same county; or

20 (2) a petition of the majority of the resident freeholders in a
 21 platted subdivision or of the owners of unplatted land outside the
 22 boundaries of a municipality, if the platted subdivision or
 23 unplatted land is in the same county;

24 the board may adopt a resolution incorporating all or any part of the
 25 area of the municipality, platted subdivision, or unplatted land into the
 26 district.

27 (c) A request under subsection (b) must be signed and certified as
 28 correct by the secretary of the legislative body, resident freeholders, or
 29 landowners. The original shall be preserved in the records of the board.
 30 The resolution of the board incorporating an area in the district must be
 31 in writing and must contain an accurate description of the area
 32 incorporated into the district. A certified copy of the resolution, signed
 33 by the president and secretary of the board, together with a map
 34 showing the boundaries of the district and the location of additional
 35 areas, shall be delivered to the auditor of the county within which the
 36 district is located. It shall be properly indexed and kept in the
 37 permanent records of the offices of the auditor.

38 (d) In addition, upon request by ten (10) or more interested resident
 39 freeholders in a platted or unplatted territory, the board may define the
 40 limits of an area within the county and including the property of the
 41 freeholders that is to be considered for inclusion into the district.
 42 Notice of the defining of the area by the board, and notice of the



location and limits of the area, shall be given by publication in accordance with IC 5-3-1. Upon request by a majority of the resident freeholders of the area, the area may be incorporated into the district in the manner provided in this section. The resolution of the board incorporating the area into the district and a map of the area shall be made and filed in the same manner.

(e) In addition, a person owning or occupying real property outside the district may enter into a sewer service agreement with the board for connection to the sewage works of the district. If the agreement provides for connection at a later time, the date or the event upon which the service commences shall be stated in the agreement. The agreement may impose any conditions for connection that the board determines. The agreement must also provide the amount of service charge to be charged for connection if the persons are not covered under section 11 of this chapter, with the amount to be fixed by the board in its discretion and without a hearing.

(f) All sewer service agreements made under subsection (e) or (after June 30, 2013) a signed memorandum of the sewer service agreement shall be recorded in the office of the recorder of the county where the property is located. The agreements run with the property described and are binding upon the persons owning or occupying the property, their personal representatives, heirs, devisees, grantees, successors, and assigns. Each agreement that is recorded, or each agreement of which a signed memorandum is recorded, and that provides for the property being served to be placed on the tax rolls shall be certified by the board to the auditor of the county where the property is located. The certification must state the date the property is to be placed on the tax rolls, and upon receipt of the certification together with a copy of the agreement, the auditor shall immediately place the property certified upon the rolls of property subject to the levy and collection of taxes for the district. An agreement may provide for the collection of a service charge for the period services are rendered before the levy and collection of the tax.

(g) Except as provided in ~~subsection~~ *subsections (j) and (m); (l)*, sewer service agreements made under subsection (e) must contain a waiver provision that persons (other than municipalities) who own or occupy property agree for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that they will:

- (1) neither object to nor file a remonstrance against the proposed annexation of the property by a municipality within the boundaries of the district;
- (2) not appeal from an order or a judgment annexing the property



1 to a municipality; and

2 (3) not file a complaint or an action against annexation
3 proceedings.

4 (h) This subsection does not affect any rights or liabilities accrued
5 or proceedings begun before July 1, 2013. Those rights, liabilities, and
6 proceedings continue and shall be imposed and enforced under prior
7 law as if this subsection had not been enacted. For contracts executed
8 after June 30, 2013, a waiver of the right to remonstrate under
9 subsection (g) *that is not void under subsection ~~(f)~~, (m), or (n), or (o)*
10 is binding as to an executor, administrator, heir, devisee, grantee,
11 successor, or assign of a party to a sewer service agreement under
12 subsection (g) only if the executor, administrator, heir, devisee,
13 grantee, successor, or assign:

14 (1) has actual notice of the waiver; or

15 (2) has constructive notice of the waiver because the sewer
16 service agreement or a signed memorandum of the sewer service
17 agreement stating the waiver has been recorded in the chain of
18 title of the property.

19 (i) This section does not affect any sewer service agreements
20 entered into before March 13, 1953. *However, this section applies to*
21 *a remonstrance waiver regardless of when the waiver was executed.*

22 (j) Subsection (g) does not apply to a landowner if all of the
23 following conditions apply:

24 (1) The landowner is required to connect to a sewer service
25 because a person other than the landowner has polluted or
26 contaminated the area.

27 (2) The costs of extension of service or connection to the sewer
28 service are paid by a person other than the landowner or the
29 municipality.

30 ~~(k) Notwithstanding any other law, a waiver of the right of~~
31 ~~remonstrance executed after June 30, 2015, expires not later than~~
32 ~~fifteen (15) years after the date the waiver was executed.~~

33 ~~(k)~~ (k) This subsection applies to any deed recorded after June 30,
34 2015. This subsection applies only to property that is subject to a
35 remonstrance waiver. A municipality shall provide written notice to
36 any successor in title to property within a reasonable time after the
37 deed is recorded, that a waiver of the right of remonstrance has been
38 granted with respect to the property.

39 ~~(m)~~ (l) The board may waive the waiver provision described in
40 subsection (g) in a sewer service agreement made under subsection (e)
41 if the sewer service agreement involves a connection to the district's
42 sewage works under IC 36-9-22.5.



~~(m)~~ **(m)** A remonstrance waiver executed before July 1, 2003, is void. This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

~~(n)~~ **(n)** A remonstrance waiver executed after June 30, 2003, and before July 1, 2019, is subject to the following:

(1) The waiver is void unless the waiver was recorded:

(A) before January 1, 2020; and

(B) with the county recorder of the county where the property subject to the waiver is located.

(2) A waiver that is not void under subdivision (1) **or subsection (p)** expires not later than fifteen (15) years after the date the waiver is executed.

This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

~~(o)~~ **(o)** A remonstrance waiver executed after June 30, 2019, is subject to the following: ~~(1) The waiver is void unless the waiver is recorded: (A) the waiver is must be recorded not later than thirty (30) business days after the date the waiver was executed and (B) with the county recorder of the county where the property subject to the waiver is located. (2) A waiver that is not void under subdivision (1) or expires not later than fifteen (15) years after the date the waiver is executed.~~ This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(p) Notwithstanding any other law, a remonstrance waiver is effective and binding on a landowner or a successor in title to a party to the contract only with regard to an annexation for which the annexation ordinance was adopted before April 1, 2020.

SECTION 29. An emergency is declared for this act."



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 23, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 13-18-15-2, AS AMENDED BY P.L.257-2019, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The persons involved shall negotiate the terms for connection and service under this chapter.

(b) If service is ordered under this chapter, a receiver of that service that is located in an unincorporated area may grant a waiver to a municipality providing the service. A waiver under this section:

- (1) must waive the receiver's right of remonstrance against annexation of the areas in which the service is to be provided; and
- (2) may be one (1) of the terms for connection and service described in subsection (a).

(c) The waiver, if granted:

- (1) shall be noted on the deed of each property affected and recorded as provided by law; and
- (2) is considered a covenant running with the land.

(d) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall, within a reasonable time after the recording of a deed to property located within the municipality, provide written notice to the property owner that a waiver of the right of remonstrance exists with respect to the property.

(e) A remonstrance waiver executed before July 1, 2003, is void. This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(f) A remonstrance waiver executed after June 30, 2003, and before July 1, 2019, is subject to the following:

- (1) The waiver is void unless the waiver was recorded ~~(A)~~ before January 1, 2020;
~~and (B)~~ with the county recorder of the county where the property subject to the waiver is located.
- (2) A waiver that is not void under subdivision (1) **or subsection (h)**, expires not later than fifteen (15) years after the date the waiver is executed.

This subsection does not invalidate an annexation that was effective on or before July 1, 2019.



(g) A remonstrance waiver executed after June 30, 2019, ~~is subject to the following~~ (1) ~~The waiver is void unless the waiver is~~ **must be** recorded (A) not later than thirty (30) business days after the date the waiver was executed ~~and~~ (B) with the county recorder of the county where the property subject to the waiver is located. (2) ~~A waiver that is not void under subdivision (1); expires not later than fifteen (15) years after the date the waiver is executed.~~ This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(h) Notwithstanding any other law, a waiver of the right of remonstrance is valid and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before April 1, 2020.

SECTION 2. IC 36-4-3-1.5, AS AMENDED BY P.L.206-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous, a strip of land less than one hundred fifty (150) feet wide that connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory.

(b) This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015, **and before April 1, 2020**. A public highway or the rights-of-way of a public highway are contiguous to:

- (1) the municipality; or
- (2) property in the unincorporated area adjacent to the public highway or rights-of-way of a public highway;

if the public highway or the rights-of-way of a public highway are contiguous under subsection (a) and one (1) of the requirements in subsection (c) is satisfied.

(c) This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015, and before April 1, 2020. A public highway or the rights-of-way of a public highway are not contiguous unless one (1) of the following requirements is met:

- (1) The municipality obtains the written consent of the owners of all property:
 - (A) adjacent to the entire length of the part of the public highway and rights-of-way of the public highway that is being annexed; and



(B) not already within the corporate boundaries of the municipality.

A waiver of the right of remonstrance executed by a property owner or a successor in title of the property owner for sewer services or water services does not constitute written consent for purposes of this subdivision.

(2) All property adjacent to at least one (1) side of the entire length of the part of the public highway or rights-of-way of the public highway being annexed is already within the corporate boundaries of the municipality.

(3) All property adjacent to at least one (1) side of the entire length of the part of the public highway or rights-of-way of the public highway being annexed is part of the same annexation ordinance in which the public highway or rights-of-way of a public highway are being annexed.

A municipality may not annex a public highway or the rights-of-way of a public highway or annex territory adjacent to the public highway or rights-of-way of a public highway unless the requirements of this section are met."

Page 2, delete lines 1 through 3.

Page 2, line 31, delete "and (after June 30, 2020) the fiscal officer of".

Page 2, delete line 32.

Page 2, line 33, delete "chapter".

Page 2, line 34, delete "and (after)".

Page 2, delete line 35.

Page 2, line 39, delete "If the" and insert "The".

Page 2, line 39, delete "is".

Page 2, line 39, delete "a" and insert "**the**".

Page 2, line 39, delete ", the notice".

Page 3, line 6, delete "After June 30, 2020, the notice shall also be sent".

Page 3, line 7, delete "to the fiscal officer of the political subdivision or taxing unit".

Page 3, line 12, delete "**or (after June 30, 2020) fiscal**".

Page 3, line 13, delete "officer".

Page 3, line 13, delete "If", begin a new paragraph and insert:

"(e) This subsection applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015, and before April 1, 2020. If "

Page 3, line 17, strike "(e)" and insert "**(f)**".

Page 3, delete lines 19 through 42, begin a new paragraph and



insert:

"SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(b) A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

(c) Except as provided in subsection (d), the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5, ~~or 5.1~~, **or 5.5** of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance.

SECTION 5. IC 36-4-3-5, AS AMENDED BY P.L.149-2016, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This subsection applies only to a petition requesting annexation that is filed before July 1, 2015. If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) This subsection applies only to a petition requesting annexation that is filed after June 30, 2015. **A municipality may not collect signatures on an annexation petition that is filed with the legislative body under this section after March 31, 2020.** If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition that meets the following requirements:

(1) The petition is signed by at least one (1) of the following:

(A) Fifty-one percent (51%) of the owners of land in the territory sought to be annexed. An owner of land may not:

(i) be counted in calculating the total number of owners of land in the annexation territory; or



(ii) have the owner's signature counted;

with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(B) The owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a petition with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The petition requests an ordinance annexing the area described in the petition.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) If the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a) or (b), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(e) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.



If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(f) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

SECTION 6. IC 36-4-3-5.1, AS AMENDED BY P.L.228-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) Owners of land located outside but contiguous to a municipality may file a petition with the legislative body of the municipality:

(1) requesting an ordinance annexing the area described in the petition; and

(2) signed by:

(A) one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed, in the case of a petition filed before July 1, 2015; and

(B) in the case of a petition filed after June 30, 2015, one hundred percent (100%) of the owners of land within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) The municipality may:

(1) adopt an annexation ordinance annexing the territory; and

(2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the



petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

~~(i) A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.~~

~~(j) (i)~~ In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter.

SECTION 7. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 5.5. (a) This section does not apply to an annexation under section 5 or 5.1 of this chapter.**

(b) This section applies only to an annexation for which an annexation ordinance is adopted after March 31, 2020.

(c) After a municipality meets the requirements under sections 2.1 and 2.2 of this chapter, and adopts an annexation ordinance under section 3 or 4 of this chapter, in order for the annexation to proceed, the municipality must file a written petition under subsection (f), signed by owners of land in the territory proposed to be annexed who are in favor of the annexation. The petition must be signed by:

- (1) at least fifty-one percent (51%) of the owners of land:**
 - (A) not exempt from property taxes under IC 6-1.1-10 or any other state law; and**
 - (B) in the territory proposed to be annexed; or**
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of land:**
 - (A) not exempt from property taxes under IC 6-1.1-10 or any other state law; and**
 - (B) in the territory proposed to be annexed.**



(d) The petition circulated by the municipality must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(e) A landowner may withdraw the landowner's signature from the petition not more than ten (10) days after the municipality adopts the annexation ordinance by providing written notice to the office of the clerk of the municipality. A landowner who withdraws the landowner's signature from the petition is considered not to have signed the petition for purposes of subsection (h)(2).

(f) The municipality must file the petition with the circuit or superior court of the county where the municipality is located not later than ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter. The petition must be accompanied by:

- (1) a copy of the ordinance; and
- (2) the names and addresses of all persons who meet the requirements of subsection (h).

(g) On receipt of the petition, the court shall determine whether the petition has the necessary signatures. In determining the total number of landowners of the territory proposed to be annexed and whether signers of the petition are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section. A person is entitled to sign a petition only one (1) time, regardless of whether the person owns more than one (1) parcel of real property. If the court determines that the municipality's petition has a sufficient number of signatures, the court shall fix a time, not later than sixty (60) days after its determination, for a hearing on the petition.

(h) A person may intervene as a party at the hearing described in subsection (g) if the following requirements are satisfied:

- (1) The person owns, solely or with another person, property that is in the territory proposed to be annexed.
- (2) None of the owners of the property signed the petition filed by the municipality.
- (3) The person appeared in person or submitted a remonstrance or other document objecting to the annexation into the record of the municipality's hearing on the annexation ordinance under section 2.1 of this chapter.



The court shall give a person described in this subsection notice of the hearing on the petition by certified mail.

SECTION 8. IC 36-4-3-5.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.6. (a) This section applies only to an annexation for which an annexation ordinance is adopted after March 31, 2020.

(b) A waiver or release of the right of remonstrance by a landowner or successor in title is void and may not be considered or counted as a valid signature on a petition in favor of annexation under section 5, 5.1, or 5.5 of this chapter.

(c) If with regard to a signature on a petition for annexation under section 5, 5.1, or 5.5 of this chapter:

- (1) the validity of a signature is uncertain; and
- (2) this section does not establish a standard to be applied in the case;

a reasonable doubt must be resolved in favor of the validity of the signature.

(d) Whenever the name of an individual, as printed or signed, contains a minor variation from the name of the individual as set forth in the relevant county records, the signature is considered valid.

(e) Whenever the residence address or mailing address of an individual contains a minor variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered valid.

(f) If the residence address or mailing address of an individual contains a substantial variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered invalid.

(g) If the signature of an individual does not substantially conform with the signature of the individual in relevant county records, the signature is considered invalid. In determining whether a signature substantially conforms with the signature in the relevant county records, consideration shall be given to whether that lack of conformity may reasonably be attributed to the age, disability, or impairment of the individual.

SECTION 9. IC 36-4-3-7, AS AMENDED BY P.L.236-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, or 5.1 of this chapter, it must be published in the manner prescribed by IC 5-3-1.



(b) This subsection applies only to an annexation for which an annexation ordinance is adopted before April 1, 2020. Except as provided in subsection ~~(b)~~; ~~(c)~~ ~~(d)~~; ~~or~~ ~~(f)~~; **(e), or (g)**, in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(c) An annexation ordinance takes effect as follows:

(1) This subdivision applies to an annexation under section 5 of this chapter. Except as provided in subsection (e), in the absence of an appeal under section 15.5 of this chapter, the annexation ordinance takes effect at least ninety (90) days after its publication and upon filing under section 22(a) of this chapter.

(2) This subdivision applies to an annexation under section 5.1 of this chapter. Except as provided in subsection (e), in the absence of an appeal under section 15.5 of this chapter, the ordinance takes effect at least thirty (30) days after the adoption of the ordinance and upon the filing under section 22(a) of this chapter.

(3) This subdivision applies to an annexation under section 5.5 of this chapter. Except as provided in subsection (e), if a final and unappealable judgment under section 12 or 15.5 of this chapter is entered in favor of the annexation, the annexation is effective upon the filing under section 22(a) of this chapter.

(4) This subdivision applies to an annexation under section 7.1 of this chapter for which an annexation ordinance is adopted after March 31, 2020. If a final and unappealable judgment under section 12 or 15.5 of this chapter is entered in favor of the annexation, the annexation is effective upon the filing under section 22(a) of this chapter.

~~(b)~~ An ordinance described in subsection ~~(d)~~ or adopted under section 3, 4, 5, or 5.1 of this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

~~(c)~~ **(d)** Subsections ~~(d)~~ and ~~(e)~~ **(e) and (f)** apply to fire protection districts that are established after July 1, 1987, and to which subsection ~~(g)~~ **(h)** does not apply. For the purposes of this section, territory that has been:

(1) added to an existing fire protection district under IC 36-8-11-11; or



(2) approved by ordinance of the county legislative body to be added to an existing fire protection district under IC 36-8-11-11, notwithstanding that the territory's addition to the fire protection district has not yet taken effect;

shall be considered a part of the fire protection district as of the date that the fire protection district was originally established.

~~(d)~~ **(e)** ~~Except as provided in subsection (b);~~ Whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020) or in the absence of a hearing or an appeal under section 12 or 15.5 of this chapter (in the case of an annexation for which an annexation ordinance is adopted after March 31, 2020)** takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. Except in the case of an annexation to which subsection (g) applies, the municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

~~(e)~~ **(f)** If the fire protection district from which a municipality annexes territory under subsection ~~(d)~~ **(e)** is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

~~(f)~~ This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect



at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

(g) Whenever a municipality annexes territory that lies within a fire protection district that has a total net assessed value (as determined by the county auditor) of more than one billion dollars (\$1,000,000,000) on the date the annexation ordinance is adopted:

- (1) the annexed area shall remain a part of the fire protection district after the annexation takes effect; and
- (2) the fire protection district shall continue to provide fire protection services to the annexed area.

The municipality shall not tax the annexed territory for fire protection services. The annexing municipality shall establish a special fire fund for all fire protection services that are provided by the municipality within the area of the municipality that is not within the fire protection district, and which shall not be assessed to the annexed special taxing district. The annexed territory that lies within the fire protection district shall continue to be part of the fire protection district special taxing district.

SECTION 10. IC 36-4-3-7.1, AS AMENDED BY P.L.257-2019, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.1. **(a) Notwithstanding section 7(b) of this chapter,** An ordinance adopted under section 4 or 5.1 of this chapter **that meets the conditions set forth in subsection (b) takes effect as follows:**

(1) In the case of an annexation for which an annexation ordinance was adopted before April 1, 2020, the ordinance takes effect immediately:

- (A)** upon the expiration of the remonstrance and appeal period under section 11, 11.1, or 15.5 of this chapter; and
- (B)** after the publication, filing, and recording required by section 22(a) of this chapter. ~~if all of the following conditions are met:~~

(2) In the case of an annexation for which an annexation ordinance was adopted after March 31, 2020, the ordinance takes effect as set forth in section 7(c)(4) of this chapter.

(b) This section applies to an annexation that meets all of the following conditions:

- (1) The annexed territory has no population.
- (2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.
- (3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local



incentives, including urban enterprise zone benefits.

SECTION 11. IC 36-4-3-11, AS AMENDED BY P.L.206-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. Except as provided in section 5.1(i) of this chapter (**as in effect on July 1, 2015**) and subsections (e) and (f), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

- (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. If the court determines that the remonstrance is sufficient, the court shall fix a time, within sixty (60) days after the court's determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) This subsection applies only to an annexation for which an annexation ordinance was adopted after June 30, 2015, **and before April 1, 2020**. If the requirements of section 11.3(c) or (after December 31, 2016) section 11.4 of this chapter are met, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located:



- (1) the signed remonstrances filed with the county auditor;
- (2) the county auditor's certification under section 11.2(i) of this chapter;
- (3) the annexation ordinance; and
- (4) a statement of the reason why the annexation should not take place.

The remonstrance must be filed with the court not later than fifteen (15) business days after the date the county auditor files the certificate with the legislative body under section 11.2(i) of this chapter. After a remonstrance petition is filed with the court, any person who signed a remonstrance may file with the court a verified, written revocation of the person's opposition to the annexation.

(e) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This subsection applies if:

- (1) the territory to be annexed consists of not more than one hundred (100) parcels; and
- (2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).

SECTION 12. IC 36-4-3-11.1, AS ADDED BY P.L.228-2015, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.1. (a) This section applies only to an annexation ordinance adopted after June 30, 2015, **and before April 1, 2020.**

(b) After a municipality adopts an annexation ordinance in accordance with all applicable notice and hearing requirements under this chapter, the annexation may not proceed unless the annexing municipality completes the procedures set forth in this section.

(c) The proper officers of the municipality must give notice of the applicability of the remonstrance process by providing notice by:

- (1) publication in accordance with IC 5-3-1; and
- (2) first class mail or certified mail with return receipt requested, or any other means of delivery that includes a return receipt;



to the circuit court clerk and to owners of real property described in section 2.2 of this chapter. Notice under this section must be published and mailed or delivered on the same date that notice of the adoption of the annexation ordinance is published under section 7 of this chapter.

(d) The notice of the applicability of the remonstrance process under subsection (c) must state the following:

(1) Any owners of real property within the area proposed to be annexed who want to remonstrate against the proposed annexation must complete and file remonstrance petitions in compliance with this chapter. The notice must state:

(A) that remonstrance petitions must be filed not later than ninety (90) days after the date that notice of the adoption of the annexation ordinance was published under section 7 of this chapter; and

(B) the last date in accordance with clause (A) that remonstrance petitions must be filed with the county auditor to be valid.

(2) A remonstrance petition may be signed at the locations provided by the municipality under subsection (e). The notice must provide the following information regarding each location:

(A) The address of the location.

(B) The dates and hours during which a remonstrance petition may be signed at the location.

(e) Beginning the day after publication of the notice under subsection (c) and ending not later than ninety (90) days after publication of the notice under subsection (c), the municipality shall provide both of the following:

(1) At least one (1) location in the offices of the municipality where a person may sign a remonstrance petition during regular business hours.

(2) At least one (1) additional location that is available for at least five (5) days, where a person may sign a remonstrance petition.

The location must meet the following requirements:

(A) The location must be in a public building:

(i) owned or leased by the state or a political subdivision, including a public library, community center, or parks and recreation building; and

(ii) located within the boundaries of the municipality or the annexation territory.

(B) The location must be open according to the following:

(i) On a day that the location is open on a weekday, the location must be open at a minimum from 5 p.m. to 9 p.m.



(ii) On a day that the location is open on a Saturday or Sunday, the location must be open at least four (4) hours during the period from 9 a.m. to 5 p.m.

(f) An additional location may not be open on a day that is a legal holiday. At any location and during the hours that a remonstrance petition may be signed, the municipality shall have a person present:

- (1) to witness the signing of remonstrance petitions; and
- (2) who shall swear and affirm before a notary public that the person witnessed each person sign the remonstrance petition.

SECTION 13. IC 36-4-3-11.2, AS AMENDED BY P.L.206-2016, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.2. (a) This section applies only to an annexation ordinance adopted after June 30, 2015, **and before April 1, 2020.**

(b) A remonstrance petition may be filed by an owner of real property that:

- (1) is within the area to be annexed;
- (2) was not exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year; and
- (3) is not subject to a valid waiver of remonstrance.

(c) A remonstrance petition must comply with the following in order to be effective:

- (1) Each signature on a remonstrance petition must be dated, and the date of the signature may not be earlier than the date on which the remonstrance forms may be issued by the county auditor under subsection (e)(7).
- (2) Each person who signs a remonstrance petition must indicate the address of the real property owned by the person in the area to be annexed.
- (3) A remonstrance petition must be verified in compliance with subsection (e).

(d) The state board of accounts shall design the remonstrance forms to be used solely in the remonstrance process described in this section. The state board of accounts shall provide the forms to the county auditor in an electronic format that permits the county auditor to copy or reproduce the forms using:

- (1) the county auditor's own equipment; or
- (2) a commercial copying service.

The annexing municipality shall reimburse the county auditor for the cost of reproducing the remonstrance forms.

(e) The county auditor's office shall issue remonstrance forms accompanied by instructions detailing all of the following



requirements:

- (1) The closing date for the remonstrance period.
- (2) Only one (1) person having an interest in each single property as evidenced by the tax duplicate is considered an owner of property and may sign a remonstrance petition. A person is entitled to sign a petition only one (1) time in a remonstrance process, regardless of whether the person owns more than one (1) parcel of real property.
- (3) An individual may not be:
 - (A) compensated for; or
 - (B) reimbursed for expenses incurred in; circulating a remonstrance petition and obtaining signatures.
- (4) The remonstrance petition may be executed in several counterparts, the total of which constitutes the remonstrance petition. An affidavit of the person circulating a counterpart must be attached to the counterpart. The affidavit must state that each signature appearing on the counterpart was affixed in the person's presence and is the true and lawful signature of the signer. The affidavit must be notarized.
- (5) A remonstrance petition that is not executed in counterparts must be verified by the person signing the petition in the manner prescribed by the state board of accounts and notarized.
- (6) A remonstrance petition may be delivered to the county auditor's office in person or by:
 - (A) certified mail, return receipt requested; or
 - (B) any other means of delivery that includes a return receipt.
 The remonstrance petition must be postmarked not later than the closing date for the remonstrance period.
- (7) The county auditor's office may not issue a remonstrance petition earlier than the day that notice is published under section 11.1 of this chapter. The county auditor's office shall certify the date of issuance on each remonstrance petition. Any person may pick up additional copies of the remonstrance petition to distribute to other persons.
- (8) A person who signs a remonstrance petition may withdraw the person's signature from a remonstrance petition before a remonstrance petition is filed with the county auditor by filing a verified request to remove the person's name from the remonstrance petition. Names may not be added to a remonstrance petition after the remonstrance petition is filed with the county auditor.
- (f) The county auditor shall prepare and update weekly a list of the



persons who have signed a remonstrance petition. The list must include a statement that the list includes all persons who have signed a remonstrance petition as of a particular date, and does not represent a list of persons certified by the county auditor as actual landowners in the annexation territory using the auditor's current tax records under subsection (i). The county auditor shall post the list in the office of the county auditor. The list is a public record under IC 5-14-3.

(g) Not later than five (5) business days after receiving the remonstrance petition, the county auditor shall submit a copy of the remonstrance petition to the legislative body of the annexing municipality.

(h) Not later than fifteen (15) business days after the legislative body of the annexing municipality receives a copy of the remonstrance petition from the county auditor, the annexing municipality shall provide documentation to the county auditor regarding any valid waiver of the right of remonstrance that exists on the property within the annexation territory.

(i) Not later than fifteen (15) business days after receiving the documentation regarding any valid waiver of the right of remonstrance from the annexing municipality under subsection (h), if any, the county auditor's office shall make a final determination of the number of owners of real property within the territory to be annexed:

- (1) who signed the remonstrance; and
- (2) whose property is not subject to a valid waiver of the right of remonstrance;

using the auditor's current tax records as provided in section 2.2 of this chapter. The county auditor shall file a certificate with the legislative body of the annexing municipality certifying the number of property owners not later than five (5) business days after making the determination.

SECTION 14. IC 36-4-3-11.3, AS ADDED BY P.L.228-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.3. (a) This section applies only to an annexation ordinance adopted after June 30, 2015, **and before April 1, 2020.**

(b) An annexation ordinance is void if a written remonstrance petition is signed by one (1) of the following:

- (1) At least sixty-five percent (65%) of the owners of land in the annexed territory. An owner of land may not:
 - (A) be counted in calculating the total number of owners of land in the annexation territory; or
 - (B) have the owner's signature counted on a remonstrance;



with regard to any single property that an owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least eighty percent (80%) in assessed valuation of the land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count the owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(c) The annexation may be appealed to the court under section 11 of this chapter, if a written remonstrance is signed by one (1) of the following:

(1) At least fifty-one percent (51%) but less than sixty-five percent (65%) of the owners of land. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least sixty percent (60%) but less than eighty percent (80%) in assessed valuation of land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

SECTION 15. IC 36-4-3-11.4, AS ADDED BY P.L.228-2015, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.4. (a) This section applies only to an annexation that ~~the~~ meets all of the following requirements:

(1) The annexation ordinance is adopted after December 31, 2016, **and before April 1, 2020.**

(2) Notwithstanding the contiguity requirements of section 1.5 of this chapter, at least one-tenth (1/10) of the aggregate external



boundaries of the territory sought to be annexed coincides with the boundaries of:

- (A) the municipality; and
- (B) the site of an economic development project.

(b) As used in this section, "economic development project" means any project developed by the municipality that meets all of the following requirements:

- (1) The annexing municipality determines that the project will:
 - (A) promote significant opportunities for the gainful employment of its citizens;
 - (B) attract a major new business enterprise to the municipality;
 - or
 - (C) retain or expand a significant business enterprise within the municipality.
- (2) The project involves expenditures by the annexing municipality for any of the following:
 - (A) Land acquisition, interests in land, site improvements, infrastructure improvements, buildings, or structures.
 - (B) Rehabilitation, renovation, and enlargement of buildings and structures.
 - (C) Machinery, equipment, furnishings, or facilities.
 - (D) Substance removal or remedial action.

(c) Notwithstanding section 11.3(b) of this chapter, even if a remonstrance has enough signatures to satisfy the requirements of section 11.3(b) of this chapter, the annexation ordinance is not void and may be appealed to the court under section 11 of this chapter, if all of the following requirements are met:

- (1) The economic development project site needs the following capital services that the municipality is lawfully able to provide:
 - (A) water;
 - (B) sewer;
 - (C) gas; or
 - (D) any combination of the capital services described in clauses (A) through (C).
- (2) The municipality finds that it is in the municipality's best interest to annex the annexation territory in order to extend, construct, or operate the capital services that are provided to the economic development project site.
- (3) Before the date the annexation ordinance is adopted, a taxpayer whose business will occupy the economic development project site has done at least one (1) of the following:
 - (A) Filed a statement of benefits under IC 6-1.1-12.1 with the



designating body for the annexing municipality for a deduction or abatement.

(B) Entered into an agreement with the Indiana economic development corporation for a credit under IC 6-3.1-13.

(d) If the economic development project:

(1) has not commenced within twelve (12) months after the date the annexation ordinance is adopted; or

(2) is not completed within thirty-six (36) months after the date the annexation ordinance is adopted;

the annexation territory is disannexed from the municipality and reverts to the jurisdiction of the unit having jurisdiction before the annexation. For purposes of this subsection, ~~a~~ **an** economic development project is considered to have commenced on the day that the physical erection, installation, alteration, repair, or remodeling of a building or structure commences on the site of the economic development project.

SECTION 16. IC 36-4-3-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. **(a)** A landowner in an unincorporated area is not required to grant a municipality a waiver against remonstrance as a condition of connection to a sewer or water service if all of the following conditions apply:

(1) The landowner is required to connect to the sewer or water service because a person other than the landowner has polluted or contaminated the area.

(2) A person other than the landowner or the municipality has paid the cost of connection to the service.

(b) Notwithstanding any other law, a waiver against remonstrance is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before April 1, 2020.

SECTION 17. IC 36-4-3-11.6, AS ADDED BY P.L.228-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.6. (a) This section applies to a remonstrance filed after June 30, 2015, **and before April 1, 2020.**

(b) If the court orders an annexation not to take place after a hearing under section 11 of this chapter, the remonstrators shall be reimbursed by the annexing municipality for any reasonable attorney's fees, including litigation expenses and appeal costs:

(1) that are incurred:

(A) after the date the annexation ordinance is adopted; and

(B) in remonstrating against the annexation; and

(2) not to exceed thirty-seven thousand five hundred dollars



(\$37,500).

SECTION 18. IC 36-4-3-11.7, AS AMENDED BY P.L.257-2019, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.7. (a) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall, within a reasonable time after the recording of a deed to property located within the municipality, provide written notice to the property owner that a waiver of the right of remonstrance exists with respect to the property.

(b) A remonstrance waiver executed before July 1, 2003, is void. This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(c) A remonstrance waiver executed after June 30, 2003, and before July 1, 2019, is subject to the following:

(1) The waiver is void unless the waiver was recorded:

(A) before January 1, 2020; and

(B) with the county recorder of the county where the property subject to the waiver is located.

(2) A waiver that is not void under subdivision (1) expires not later than fifteen (15) years after the date the waiver is executed.

This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(d) A remonstrance waiver executed after June 30, 2019, ~~is subject to the following:~~ ~~(1) The waiver is void unless the waiver is~~ **must be** recorded ~~(A) not later than thirty (30) business days after the date the waiver was executed and (B) with the county recorder of the county where the property subject to the waiver is located. (2) A waiver that is not void under subdivision (1) expires not later than fifteen (15) years after the date the waiver is executed.~~ This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(e) Notwithstanding any other law, a remonstrance waiver is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before April 1, 2020.

SECTION 19. IC 36-4-3-12, AS AMENDED BY P.L.113-2010, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. ~~(a)~~ The circuit or superior court shall:

(1) on the date fixed under:

(A) section 11 of this chapter (in the case of an annexation for which an annexation ordinance is adopted before April



1, 2020), hear and determine the remonstrance without a jury;

or

(B) section 5.5 of this chapter (in the case of an annexation for which an annexation ordinance is adopted after March 31, 2020), hear and determine the petition without a jury;
and

(2) without delay, enter judgment on the question of the annexation according to the evidence that either party may introduce.

~~(b) If the court enters judgment in favor of the annexation, the annexation may not take effect during the year preceding the year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.~~

SECTION 20. IC 36-4-3-13, AS AMENDED BY P.L.206-2016, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Except as provided in subsection (e), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(3) The requirements of subsection (i) **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020).**

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes one (1) of the following:

(1) That the territory sought to be annexed is:

(A) contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the



territory sought to be annexed must coincide with the boundaries of the municipality; and

(B) needed and can be used by the municipality for its development in the reasonably near future.

(2) This subdivision applies only to an annexation for which an annexation ordinance is adopted after December 31, 2016, **and before April 1, 2020**. That the territory sought to be annexed involves an economic development project and the requirements of section 11.4 of this chapter are met.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.



(6) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect of the proposed annexation on taxpayers in each of the political subdivisions to which the proposed annexation applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions for four (4) years after the effective date of the annexation.

(7) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect the proposed annexation will have on municipal finances, specifically how municipal tax revenues will be affected by the annexation for four (4) years after the effective date of the annexation.

(8) This subdivision applies to a fiscal plan prepared after June 30, 2015. Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation.

(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the annexation territory and the following information regarding each parcel:

(A) The name of the owner of the parcel.

(B) The parcel identification number.

(C) The most recent assessed value of the parcel.

(D) The existence of a known waiver of the right to remonstrate on the parcel. This clause applies only to a fiscal plan prepared after June 30, 2016, **and before April 1, 2020.**

(e) At the hearing under section 12 of this chapter **with regard to an annexation for which an annexation ordinance was adopted before April 1, 2020**, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions that are applicable to the annexation exist in the territory proposed to be annexed:

(A) This clause applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:

(i) the personal finances; or



(ii) the business finances;
of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns, may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015, **and before April 1, 2020**. One (1) of the following opposes the annexation:

(i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.

(F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before April 1, 2020. The



municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

(h) A municipality that prepares a fiscal plan after June 30, 2015, must comply with this subsection. A municipality may not amend the fiscal plan after the date that:

- (1) a remonstrance is filed with the court under section 11 of this chapter **(in the case of an annexation for which an annexation ordinance was adopted before April 1, 2020); or**
- (2) a petition is filed with the court under section 5.5 of this chapter **(in the case of an annexation for which an annexation ordinance was adopted after March 31, 2020);**

unless amendment of the fiscal plan is consented to by ~~at least sixty-five percent (65%)~~ of the persons who signed the remonstrance **or the petition.**

(i) The municipality must submit proof that the municipality has complied with:

- ~~(A)~~ **(1)** the outreach program requirements and notice requirements of section 1.7 of this chapter; and
- ~~(B)~~ **(2)** the requirements of section 11.1 of this chapter **(in the case of an annexation for which an annexation ordinance was adopted after June 30, 2015, and before April 1, 2020).**

SECTION 21. IC 36-4-3-15, AS AMENDED BY P.L.228-2015, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The court's judgment under section 12



or 15.5 of this chapter must specify the annexation ordinance. ~~on which the remonstrance is based.~~ The clerk of the court shall deliver a certified copy of the final and unappealable judgment to the clerk of the municipality. The clerk of the municipality shall:

- (1) record the judgment in the clerk's ordinance record; and
- (2) make a cross-reference to the record of the judgment on the margin of the record of the annexation ordinance.

(b) If a final and unappealable judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory or any part of the territory during the four (4) years after the later of:

- (1) the judgment of the circuit or superior court; or
 - (2) the date of the final disposition of all appeals to a higher court;
- unless the annexation is petitioned for under section 5 or 5.1 of this chapter.

(c) This subsection applies if a municipality repeals the annexation ordinance:

- (1) less than sixty-one (61) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences:
 - (A) on the remonstrance under section 11(c) of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020); or**
 - (B) on the petition under section 12 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted after March 31, 2020).**

A municipality may not make further attempts to annex the territory or any part of the territory during the twelve (12) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(d) This subsection applies if a municipality repeals the annexation ordinance:

- (1) at least sixty-one (61) days but not more than one hundred twenty (120) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences:
 - (A) on the remonstrance under section 11(c) of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020); or**
 - (B) on the petition under section 12 of this chapter **(in the case of an annexation for which an annexation ordinance**



is adopted after March 31, 2020).

A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(e) This subsection applies if a municipality repeals the annexation ordinance:

(1) either:

(A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences:

- (i) on the remonstrance under section 11(c) of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020); or**
- (ii) on the petition under section 12 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted after March 31, 2020).**

(B) after the hearing commences:

- (i) on the remonstrance as set forth in section 11(c) of this chapter **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020);**
or
- (ii) on the petition under section 12 of this chapter **(in the case of an annexation for which an annexation ordinance is adopted after March 31, 2020); and**

(2) before the date of the judgment of the circuit or superior court as set forth in subsection (b).

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) An annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

SECTION 22. IC 36-4-3-15.3, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.3. (a) As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.

(b) As used in this section, "settlement agreement" means a written



court approved settlement of a dispute involving annexation under this chapter between a municipality and remonstrators.

(c) Under a settlement agreement between the annexing municipality and either:

- (1) seventy-five percent (75%) or more of all landowners participating in the remonstrance; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land owned by all landowners participating in the remonstrance;

the parties may mutually agree to a prohibition against annexation of all or part of the territory by the municipality for a period not to exceed twenty (20) years. The settlement agreement may address issues and bind the parties to matters relating to the provision by a municipality of planned services of a noncapital nature and services of a capital improvement nature (as described in section 13(d) of this chapter), in addition to a prohibition against annexation. The settlement agreement is binding upon the successors, heirs, and assigns of the parties to the agreement. However, the settlement agreement may be amended or revised periodically on further agreement between the annexing municipality and landowners who meet the qualifications of ~~subsection (c)(1) or (c)(2):~~ **subdivision (1) or (2).**

(d) A settlement agreement executed after March 31, 2020, is void.

SECTION 23. IC 36-4-3-15.5, AS AMENDED BY P.L.207-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.5. (a) Except as provided in subsection (b):

- (1) an owner of land within one-half (1/2) mile of territory proposed to be annexed under this chapter; or
- (2) a municipality located in the same county as the territory proposed to be annexed;

may, not later than sixty (60) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(b) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Either of the following may appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located:

- (1) An owner of land within one-half (1/2) mile of the territory



proposed to be annexed under this chapter.

(2) A municipality located in the same county as the territory proposed to be annexed.

An appeal under this subsection must be filed not later than thirty (30) days after the publication of the annexation ordinance. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(c) Upon the determination of the court that the complaint is sufficient, the judge shall fix a time for a hearing to be held not later than sixty (60) days after the determination. Notice of the proceedings shall be served by summons upon the proper officers of the annexing municipality. The municipality shall become a defendant in the cause and be required to appear and answer. The judge of the circuit or superior court shall, upon the date fixed, proceed to hear and determine the appeal without a jury, and shall, without delay, give judgment upon the question of the annexation according to the evidence introduced by the parties. If the evidence establishes that the territory sought to be annexed is contiguous to the annexing municipality, the court shall deny the appeal and dismiss the proceeding. If the evidence does not establish the foregoing factor, the court shall issue an order to prevent the proposed annexation from taking effect. The laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had. Costs follow judgment. Pending the appeal, and during the time within which the appeal may be taken, the territory sought to be annexed is not a part of the annexing municipality.

(d) ~~If the court enters a judgment in favor of the municipality, the annexation may not take effect during the year preceding a year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.~~

SECTION 24. IC 36-4-3-19, AS AMENDED BY P.L.113-2010, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) If disannexation is ordered under this chapter by the works board of a municipality and no appeal is taken, the clerk of the municipality shall, without compensation and not later than ten (10) days after the order is made, make and certify a complete transcript of the disannexation proceedings to the auditor of each county in which the disannexed lots or lands lie and to the office of the secretary of state. The county auditor shall list those lots or lands appropriately for taxation. The



proceedings of the works board shall not be certified to the county auditor or to the office of the secretary of state if an appeal to the circuit court has been taken.

(b) In all proceedings begun in or appealed to the circuit court, if vacation or disannexation is ordered, the clerk of the court shall immediately after the judgment of the court, or after a decision on appeal to the supreme court or court of appeals if the judgment on appeal is not reversed, certify the judgment of the circuit court, as affirmed or modified, to each of the following:

- (1) The auditor of each county in which the lands or lots affected lie, on receipt of one dollar (\$1) for the making and certifying of the transcript from the petitioners for the disannexation.
- (2) The office of the secretary of state.
- (3) The circuit court clerk of each county in which the lands or lots affected are located.
- (4) The county election board of each county in which the lands or lots affected are located.
- (5) If a board of registration exists, the board of each county in which the lands or lots affected are located.
- (6) The office of census data established by IC 2-5-1.1-12.2.

(c) The county auditor shall forward a list of lots or lands disannexed under this section to the following:

- (1) The county highway department of each county in which the lands or lots affected are located.
- (2) The county surveyor of each county in which the lands or lots affected are located.
- (3) Each plan commission, if any, that lost or gained jurisdiction over the disannexed territory.
- (4) The township trustee of each township that lost or gained jurisdiction over the disannexed territory.
- (5) The sheriff of each county in which the lands or lots affected are located.
- (6) The office of the secretary of state.
- (7) The office of census data established by IC 2-5-1.1-12.2.

The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the list of disannexed lots or lands or may charge the clerk a fee for photoreproduction of the list.

(d) A disannexation described by this section takes effect upon the clerk of the municipality filing the order with:

- (1) the county auditor of each county in which the annexed territory is located; and
- (2) the circuit court clerk, or if a board of registration exists, the



board of each county in which the annexed territory is located.

(e) The clerk of the municipality shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date a disannexation is effective under this chapter.

~~(f) A disannexation order under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A disannexation order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.~~

SECTION 25. IC 36-4-3-22, AS AMENDED BY P.L.228-2015, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) The clerk of the municipality shall file:

(1) each annexation ordinance: ~~against which:~~

(A) **against which:**

(i) a remonstrance **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020);** or

(ii) an appeal;

has not been filed during the period permitted under this chapter; or

(B) **against which** a remonstrance was filed without a sufficient number of signatures to meet the requirements of section 11.3(c) of this chapter, in the case of an annexation for which an annexation ordinance was adopted after June 30, 2015, **and before April 1, 2020;** or

(2) the certified copy of a final and unappealable judgment ordering an annexation to take place;

with the county auditor, circuit court clerk, and board of registration (if a board of registration exists) of each county in which the annexed territory is located, the office of the secretary of state, and the office of census data established by IC 2-5-1.1-12.2. The clerk of the municipality shall record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The ordinance or judgment must be filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for:

(A) a remonstrance **(in the case of an annexation for which an annexation ordinance is adopted before April 1, 2020);**
or



- (B) an appeal under section 15.5 of this chapter;**
 (2) the delivery of a certified order under section 15 of this chapter; or
 (3) the date the county auditor files the written certification with the legislative body under section 11.2 of this chapter, in the case of an annexation:
(A) described in subsection (a)(1)(B); and
(B) for which an annexation ordinance is adopted before April 1, 2020.
- (c) Failure to record the annexation ordinance as provided in subsection (a) does not invalidate the ordinance.
- (d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:
- (1) The county highway department of each county in which the lots or lands affected are located.
 - (2) The county surveyor of each county in which the lots or lands affected are located.
 - (3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.
 - (4) The sheriff of each county in which the lots or lands affected are located.
 - (5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.
 - (6) The office of the secretary of state.
 - (7) The office of census data established by IC 2-5-1.1-12.2.
- (e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.
- (f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 26. IC 36-4-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The fiscal officer shall present the report of budget estimates to the city legislative body under IC 6-1.1-17. After reviewing the report, the legislative body shall prepare an ordinance fixing the rate of taxation for the ensuing budget year and an ordinance making appropriations for the estimated department budgets and other city purposes during the ensuing budget



year. The legislative body, in the appropriation ordinance, may reduce any estimated item from the figure submitted in the report of the fiscal officer, but it may increase an item only if the executive recommends an increase. The legislative body shall promptly act on the appropriation ordinance.

(b) In preparing the ordinances described in subsection (a) the legislative body shall make an allowance for the cost of fire protection to annexed territory described in ~~IC 36-4-3-7(d)~~, **IC 36-4-3-7(e)** for the year fire protection is first offered to that territory.

SECTION 27. IC 36-9-22-2, AS AMENDED BY P.L.150-2019, SECTION 1, AND AS AMENDED BY P.L.257-2019, SECTION 162, AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

(b) The works board of a municipality may contract with owners of real property for the construction of sewage works within the municipality or within four (4) miles outside its corporate boundaries in order to provide service for the area in which the real property of the owners is located. The contract must provide, for a period of not to exceed fifteen (15) years, for the payment to the owners and their assigns by any owner of real property who:

- (1) did not contribute to the original cost of the sewage works; and
- (2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

of a fair pro rata share of the cost of the construction of the sewage works, subject to the rules of the board and notwithstanding any other law relating to the functions of local governmental entities. However, the contract does not apply to any owner of real property who is not a party to the contract unless the contract or (after June 30, 2013) a signed memorandum of the contract has been recorded in the office of the recorder of the county in which the real property of the owner is located before the owner taps into or connects to the sewers and facilities. The board may provide that the fair pro rata share of the cost of construction includes interest at a rate not exceeding the amount of interest allowed on judgments, and the interest shall be computed from



the date the sewage works are approved until the date payment is made to the municipality.

(c) The contract must include, as part of the consideration running to the municipality, the release of the right of:

- (1) the parties to the contract; and
- (2) the successors in title of the parties to the contract;

to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. Any person tapping into or connecting to the sewage works contracted for is considered to waive the person's rights to remonstrate against the annexation of the area served by the sewage works.

(d) Notwithstanding subsection (c), the works board of a municipality may waive the provisions of subsection (c) in the contract if:

- (1) the works board considers a waiver of subsection (c) to be in the best interests of the municipality; *or*
- (2) *the contract involves connection to the sewage works under IC 36-9-22.5.*

(e) This subsection does not affect any rights or liabilities accrued, or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, *if the release of the right to remonstrate is not void under subsection (i), (j), or (k), the release is binding on a successor in title to a party to the contract only if the successor in title:*

- (1) has actual notice of the release; or
- (2) has constructive notice of the release because the contract, or a signed memorandum of the contract stating the release, has been recorded in the chain of title of the property.

(f) Subsection (c) does not apply to a landowner if all of the following conditions apply:

- (1) The landowner is required to connect to the sewage works because a person other than the landowner has polluted or contaminated the area.
- (2) The costs of extension of or connection to the sewage works are paid by a person other than the landowner or the municipality.

(g) Subsection (c) does not apply to a landowner who taps into, connects to, or is required to tap into or connect to the sewage works of a municipality only because the municipality provides wholesale sewage service (as defined in IC 8-1-2-61.7) to another municipality that provides sewage service to the landowner.

(h) Notwithstanding any other law, a waiver of the right of



remonstrance executed after June 30, 2015, expires not later than fifteen (15) years after the date the waiver was executed.

~~(f)~~ (h) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall provide written notice to any successor in title to property within a reasonable time after the deed is recorded, that a waiver of the right of remonstrance exists with respect to the property.

(i) A remonstrance waiver executed on or before July 1, 2003, is void. This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(j) A remonstrance waiver executed after June 30, 2003, and not later than June 30, 2019, is subject to the following:

(1) The waiver is void unless the waiver was recorded ~~(A)~~ before January 1, 2020 and

~~(B)~~ with the county recorder of the county where the property subject to the waiver is located.

(2) A waiver that is not void under subdivision (1) **or subsection (l) expires not later than fifteen (15) years after the date the waiver is executed.**

This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(k) A remonstrance waiver executed after June 30, 2019, *is subject to the following:* ~~(1) The waiver is void unless the waiver is must be recorded (A) not later than thirty (30) business days after the date the waiver was executed and (B) with the county recorder of the county where the property subject to the waiver is located. (2) A waiver that is not void under subdivision (1) expires not later than fifteen (15) years after the date the waiver is executed.~~ *This subsection does not invalidate an annexation that was effective on or before July 1, 2019.*

(l) Notwithstanding any other law, a remonstrance waiver is effective and binding on a landowner or a successor in title to a party to the contract only with regard to an annexation for which the annexation ordinance was adopted before April 1, 2020.

SECTION 28. IC 36-9-25-14, AS AMENDED BY P.L.150-2019, SECTION 3, AND AS AMENDED BY P.L.257-2019, SECTION 166, AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) As to each municipality to which this chapter applies:

(1) all the territory included within the corporate boundaries of



the municipality; and

(2) any territory, town, addition, platted subdivision, or unplatted land lying outside the corporate boundaries of the municipality that has been taken into the district in accordance with a prior statute, the sewage or drainage of which discharges into or through the sewage system of the municipality;

constitutes a special taxing district for the purpose of providing for the sanitary disposal of the sewage of the district in a manner that protects the public health and prevents the undue pollution of watercourses of the district.

(b) Upon request by:

(1) a resolution adopted by the legislative body of another municipality in the same county; or

(2) a petition of the majority of the resident freeholders in a platted subdivision or of the owners of unplatted land outside the boundaries of a municipality, if the platted subdivision or unplatted land is in the same county;

the board may adopt a resolution incorporating all or any part of the area of the municipality, platted subdivision, or unplatted land into the district.

(c) A request under subsection (b) must be signed and certified as correct by the secretary of the legislative body, resident freeholders, or landowners. The original shall be preserved in the records of the board. The resolution of the board incorporating an area in the district must be in writing and must contain an accurate description of the area incorporated into the district. A certified copy of the resolution, signed by the president and secretary of the board, together with a map showing the boundaries of the district and the location of additional areas, shall be delivered to the auditor of the county within which the district is located. It shall be properly indexed and kept in the permanent records of the offices of the auditor.

(d) In addition, upon request by ten (10) or more interested resident freeholders in a platted or unplatted territory, the board may define the limits of an area within the county and including the property of the freeholders that is to be considered for inclusion into the district. Notice of the defining of the area by the board, and notice of the location and limits of the area, shall be given by publication in accordance with IC 5-3-1. Upon request by a majority of the resident freeholders of the area, the area may be incorporated into the district in the manner provided in this section. The resolution of the board incorporating the area into the district and a map of the area shall be made and filed in the same manner.



(e) In addition, a person owning or occupying real property outside the district may enter into a sewer service agreement with the board for connection to the sewage works of the district. If the agreement provides for connection at a later time, the date or the event upon which the service commences shall be stated in the agreement. The agreement may impose any conditions for connection that the board determines. The agreement must also provide the amount of service charge to be charged for connection if the persons are not covered under section 11 of this chapter, with the amount to be fixed by the board in its discretion and without a hearing.

(f) All sewer service agreements made under subsection (e) or (after June 30, 2013) a signed memorandum of the sewer service agreement shall be recorded in the office of the recorder of the county where the property is located. The agreements run with the property described and are binding upon the persons owning or occupying the property, their personal representatives, heirs, devisees, grantees, successors, and assigns. Each agreement that is recorded, or each agreement of which a signed memorandum is recorded, and that provides for the property being served to be placed on the tax rolls shall be certified by the board to the auditor of the county where the property is located. The certification must state the date the property is to be placed on the tax rolls, and upon receipt of the certification together with a copy of the agreement, the auditor shall immediately place the property certified upon the rolls of property subject to the levy and collection of taxes for the district. An agreement may provide for the collection of a service charge for the period services are rendered before the levy and collection of the tax.

(g) Except as provided in ~~subsection~~ subsections (j) and ~~(m)~~, (l), sewer service agreements made under subsection (e) must contain a waiver provision that persons (other than municipalities) who own or occupy property agree for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that they will:

- (1) neither object to nor file a remonstrance against the proposed annexation of the property by a municipality within the boundaries of the district;
- (2) not appeal from an order or a judgment annexing the property to a municipality; and
- (3) not file a complaint or an action against annexation proceedings.

(h) This subsection does not affect any rights or liabilities accrued or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior



law as if this subsection had not been enacted. For contracts executed after June 30, 2013, a waiver of the right to remonstrate under subsection (g) *that is not void under subsection ~~(f)~~, (m), or (n), or (o)* is binding as to an executor, administrator, heir, devisee, grantee, successor, or assign of a party to a sewer service agreement under subsection (g) only if the executor, administrator, heir, devisee, grantee, successor, or assign:

- (1) has actual notice of the waiver; or
- (2) has constructive notice of the waiver because the sewer service agreement or a signed memorandum of the sewer service agreement stating the waiver has been recorded in the chain of title of the property.

(i) This section does not affect any sewer service agreements entered into before March 13, 1953. *However, this section applies to a remonstrance waiver regardless of when the waiver was executed.*

(j) Subsection (g) does not apply to a landowner if all of the following conditions apply:

- (1) The landowner is required to connect to a sewer service because a person other than the landowner has polluted or contaminated the area.
- (2) The costs of extension of service or connection to the sewer service are paid by a person other than the landowner or the municipality.

~~(k)~~ *Notwithstanding any other law, a waiver of the right of remonstrance executed after June 30, 2015, expires not later than fifteen (15) years after the date the waiver was executed.*

~~(l)~~ *(k)* This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall provide written notice to any successor in title to property within a reasonable time after the deed is recorded, that a waiver of the right of remonstrance has been granted with respect to the property.

~~(m)~~ *(l)* The board may waive the waiver provision described in subsection (g) in a sewer service agreement made under subsection (e) if the sewer service agreement involves a connection to the district's sewage works under IC 36-9-22.5.

~~(n)~~ *(m)* A remonstrance waiver executed before July 1, 2003, is void. This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

~~(o)~~ *(n)* A remonstrance waiver executed after June 30, 2003, and before July 1, 2019, is subject to the following:

- (1) The waiver is void unless the waiver was recorded:



(A) before January 1, 2020; and

(B) with the county recorder of the county where the property subject to the waiver is located.

(2) A waiver that is not void under subdivision (1) or subsection (p) expires not later than fifteen (15) years after the date the waiver is executed.

This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

~~(n) (o) A remonstrance waiver executed after June 30, 2019, is subject to the following: (1) The waiver is void unless the waiver is recorded: (A) the waiver is must be recorded not later than thirty (30) business days after the date the waiver was executed and (B) with the county recorder of the county where the property subject to the waiver is located. (2) A waiver that is not void under subdivision (1) or expires not later than fifteen (15) years after the date the waiver is executed. This subsection does not invalidate an annexation that was effective on or before July 1, 2019.~~

(p) Notwithstanding any other law, a remonstrance waiver is effective and binding on a landowner or a successor in title to a party to the contract only with regard to an annexation for which the annexation ordinance was adopted before April 1, 2020.

SECTION 29. An emergency is declared for this act."

Delete pages 4 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 23 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 4.

